

**KNOX COUNTY COMMON PLEAS COURT**

FILED  
KNOX COUNTY  
COURT OF COMMON PLEAS

2017 DEC -1 AM 9:40

**RULES OF PRACTICE AND PROCEDURE**

MARY JO HAWKINS  
CLERK OF COURTS

**ENTRY**

In the matter of Rules of Practice and Procedure, Knox County Common Pleas Court, the following rules are adopted December 1, 2017, to govern the practice and procedure of this Court subject to such rules as may be adopted or promulgated by the Supreme Court of Ohio.

These rules shall be recorded by the Clerk of Courts of Knox County and journalized therein and shall be filed with the Ohio Supreme Court.

All previous Local Rules of Court are hereby rescinded.

  
\_\_\_\_\_  
RICHARD D. WETZEL, JUDGE

(December 1, 2017)

310/432

# KNOX COUNTY COMMON PLEAS COURT

## GENERAL RULES

### TABLE OF CONTENTS

<u>RULE #</u>	<u>SUBJECT</u>	<u>PAGE #</u>
RULE 1	Filing	4-5
RULE 2	Security for Costs	5-6
RULE 3	Rule days not Fixed by Law	6
RULE 4	Rule Day Extensions	6
RULE 5	Hearings & Submission of Motions	6-7
RULE 6	Pretrial	7
RULE 7	Court Reporters	8
RULE 8	Costs of Jury Trials	8
RULE 9	Subpoenas	8
RULE 10	Entry of Appearance & Withdrawal	8-9
RULE 11	Trial Procedure	9
RULE 12	Entries	9-10
RULE 13	Civil Case Management Plan	10-11
RULE 14	Criminal Case Management	11
RULE 15	Files	11
RULE 16	Judicial Sales	11-17

RULE 17	Notaries Public	17
RULE 18	Jury Selection	17
RULE 19	Jury Use & Management	18-24
RULE 20	Transcript Procedures	24
RULE 21	Mediation	25-26
RULE 22	Civil and Stalking Protection Orders	26
RULE 23	Court Security	26-27
RULE 24	Appointment of Counsel for Indigent Defendants	27-34
RULE 25	Certification of Qualification for Employment	34-36
RULE 26	Records of Hearings/Trial & Transcripts	36-37

## **APPENDIX**

Confidential Disclosure of Personal Identifiers

Clerk of Courts—Fee Schedule

KCCPC Official Court Reporter Transcript Fees

Foreclosure Checklist

Assigned Counsel and Expenses – Resolution 101-2016-62-2017

Knox County Adult Court Services Pre-Trial Release Program

Pre-Trial Diversion Program

*310/434*

# **KNOX COUNTY COMMON PLEAS COURT**

## **GENERAL DIVISION**

### **RULES OF COURT**

#### **RULE 1 – FILING OF PLEADINGS, MOTIONS AND OTHER DOCUMENTS**

**1.01** In every initial pleading or motion, filed on behalf of a party or parties, the caption shall set forth the names and complete addresses of each party.

**1.02** Every pleading or motion filed on behalf of a party shall contain the name, address, telephone number, e-mail address for service by electronic means under Civ.R. 5(B)(2)(f), and Ohio Supreme Court attorney registration number of counsel. If filed by a law firm, the name of the particular attorney primarily responsible for the case shall also appear. For parties not represented by counsel, every pleading or motion filed shall contain their name, address, telephone number, and email address for service by electronic means under Civ.R. 5(B)(2)(f). No filings shall be accepted by the Clerk without complete contact information as required in accordance with this rule.

**1.03** The original and sufficient copies of the pleadings or motion to be served by the Clerk of Courts or Sheriff shall be filed with the Clerk. The Clerk shall not accept for filing any pleading or motion that does not include sufficient copies to be served upon all parties and counsel. The Clerk of Court shall be responsible for the service of a copy upon all parties and counsel of any judgment entry and the notice of judgment pursuant to Civ. R. 58(B), via regular mail, electronic delivery, or otherwise in accordance with Civ. R. 5(B) including personal delivery in the Clerk's office for local attorneys, and the notation of that service upon the docket. Any papers served electronically by the Clerk shall include a Certificate of the Clerk of Courts that the document is a true and correct copy of the original filed in the Clerk's office.

3/10/1435

**1.04** THE PARTIES SHALL PROVIDE THE COURT A COURTESY COPY OF EVERY MOTION FILED.

**1.05** No two-sided pleadings, motions, or judgment entries shall be accepted by the Clerk of Courts for filing.

**1.06** Pursuant to Rule 45(D) of the Rules of Superintendence for the Courts of Ohio, it is the responsibility of the filing party to omit or redact personal identifiers from case documents. Personal identifiers include social security numbers, except for the last four digits, financial account numbers, including but not limited to debit card, charge card and credit card numbers, and employer and employee identification numbers.

Personal identifiers should be omitted or redacted from all case documents submitted to the Court or filed with the Clerk, unless otherwise ordered by the Court. Pursuant to Sup.R. 45(D) (3), all personal identifiers shall be provided to the Court on the Confidential Disclosure of Personal Identifiers form promulgated by the Supreme Court as prescribed in and adopted by this rule. The Confidential Disclosure of Person Identifiers form shall be completed and filed in any action that requires a social security number or other personal identifier as defined in Sup. Rule (44)(H).

The Clerk of Courts shall seal all confidential Disclosure of Personal Identifiers forms filed pursuant to this rule. Thereafter, the Clerk may destroy the original form and shall maintain it in electronic form only.

## **RULE 2 – SECURITY FOR COSTS**

**2.01** The Clerk for filing shall accept no civil action or proceeding unless the party or parties filing the action first deposit a sum to secure the payment of the costs, except as otherwise provided by law.

In the event a cross-complaint exceeds the monetary jurisdiction of the municipal court, the cross-complainant shall post security for costs in a sum equal to the amount that would be required if the case was originally filed in this Court.

**2.02** In cases with multiple parties, the Clerk may require the party requesting service to advance an amount determined by the Clerk to be sufficient to cover the costs.

**2.03** A poverty affidavit filed in lieu of a cash deposit must state the reasons for the inability to prepay costs and is subject to Court review at any stage of the proceedings.

### **RULE 3 – RULE DAYS NOT FIXED BY LAW**

**3.01** In all cases where the time for the filing of any pleadings or amended pleadings is not fixed by law or other rule, the pleadings or amended pleadings shall be filed: **on or before the fourteenth day** from the date of the journal entry granting counsel leave to plead, the response must be filed, unless otherwise specified in the Court's entry.

### **RULE 4 – RULE DAY EXTENSIONS**

**4.01** Counsel for the parties may file an agreed entry for an extension of time to move or plead provided the extension of time **does not exceed 28 days**.

**4.02** If an additional extension of time beyond that provided by Local Rule 4.01 is needed or if the parties cannot agree, the party desiring the extension shall file a motion and memorandum in support with a proposed entry. The motion shall be filed on or before the expiration of time.

### **RULE 5 – HEARINGS AND SUBMISSION OF MOTIONS**

**5.01** All motions shall be accompanied with a memorandum in support stating the grounds and citing applicable authorities, with an Order granting the relief requested. The party shall serve any responsive pleading **on or before the fourteenth day after the date of service**. The moving party shall serve any reply **on or before the seventh day after the date of service**. **On the twenty-eighth day** after the motion is filed, the motion shall be deemed submitted to the Court.

**ORAL HEARINGS WILL BE CONSIDERED AT THE DISCRETION OF THE COURT UPON WRITTEN REQUEST OF ANY PARTY.**

Except as otherwise provided, this Rule shall apply to all motions.

**5.02** The Assignment Commissioner shall fix appointment of receivers, or similar urgent equitable relief hearings for temporary restraining orders, and/or preliminary injunctions. Notice of the time of the hearing shall be served upon the adverse party or counsel. No matter shall be heard *ex parte* unless, from

affidavits filed with the motion, the Court determines that extraordinary undue hardship would result to the moving party by any delay in the proceedings.

If the order is issued, a hearing on the order shall be scheduled and held after notice.

**5.03** A request for production or inspection shall be served upon other counsel or parties in accordance with the Civil Rules. A response to a request for production of documents or objections shall be filed with the Clerk, but the actual documents requested **shall not be filed with the Clerk.**

## **RULE 6 – PRETRIAL**

**6.01** All civil cases will be set for pretrial conference and notice given by the Court.

All counsel and parties shall be present; however, parties may be available by telephone with prior consent of the Court.

**6.02** In all civil cases, the parties shall file and serve upon all opposing counsel or parties a pretrial statement which shall include:

- (A) A brief statement of the facts;
- (B) The issues of law;
- (C) Identification of all exhibits expected to be offered at trial;
- (D) Any itemization of expenses, loss of income, and other special damages;
- (E) Any requests for medical examination of the adverse party;
- (F) An identification of any persons to be deposed and the approximate dates such depositions will be taken;
- (G) Specifications of any amendments to be made to the pleadings;
- (H) Identifications of the names and addresses of expert witnesses to be called by the parties;
- (I) An estimate of the time required for trial;
- (J) A request for a view of the scene, if such request is to be made by the party.

The pretrial statement shall be filed seven days prior to the pretrial hearing.

**6.03** At the conclusion of the pretrial conference, the Court may cause to be prepared and filed an order reflecting the action taken and the agreements or stipulations reached in a pretrial status order.

3/10/438

## **RULE 7 - COURT REPORTERS**

Court reporters are provided by the Court in all evidentiary hearings or in all other proceedings at the discretion of the Court. The Court reporter's fee will be collected as costs pursuant to ORC 2301.21.

## **RULE 8 – COSTS OF JURY TRIALS**

**8.01** The deposit for a jury trial request is \$350.00 and must be paid to the Clerk of Courts no later than **four weeks** prior to the date of trial.

**Failure to comply with this provision shall be deemed a waiver of trial by Jury.**

**8.02** The party/parties requesting a jury trial shall notify the Assignment Commissioner **not less than two court days** in advance of the jury trial date of the settlement or dismissal of the case. Failure to notify the Assignment Commissioner shall result in assessment of costs for the jury panel, any court reporter costs in excess of those charged as costs in the case, and any other costs against the party/parties making the jury demand.

**8.03** In criminal cases, the Court will not consider any plea negotiations unless they have been completed and approved by the Court **not less than two court days** in advance of the trial date when a jury has been scheduled.

## **RULE 9 – SUBPOENAS**

**9.01** Attorneys shall be diligent in filing requests in the Clerk's office to subpoena witnesses by the Sheriff or in causing subpoenas for witnesses to be served by other persons as authorized by law.

**9.02** Except for good cause shown, the Clerk shall not be required to issue subpoenas, nor the Sheriff required to serve the same, unless requests are filed with the Clerk at least **SEVEN COURT** days prior to the time of the trial or hearing.

## **RULE 10 – ENTRY OF APPEARANCE AND WITHDRAWAL OF COUNSEL**

**10.01** In civil cases, entry of appearance by counsel may be effectuated by signature of counsel on a pleading or motion.

310/439

In criminal cases, entry of appearance by counsel shall be on a form approved by the Court.

**10.02** Counsel for any party shall be permitted to withdraw from an action:

(A) Upon motion with consent of the client and a substitution of counsel,  
or

(B) At the discretion of the Court upon motion that contains notice to the client of the time, date, and location of the trial or hearing and a showing of good cause. A proposed entry must be submitted.

**10.03** The Court may at its discretion schedule a hearing on a motion to withdraw.

### **RULE 11 – TRIAL PROCEDURE**

**11.01** Trial procedure shall be in accordance with statute or the rules of the Supreme Court of Ohio.

**11.02** Except by permission of the Court, only one counsel for each party will be permitted to speak on any interlocutory motion, or upon any question arising in the trial of a case, and only one counsel for each party will be permitted to examine the same witness in any trial or proceeding before the Court. A witness, not a party, when examined, cannot be recalled as a witness without permission of the Court.

### **RULE 12 – ENTRIES**

**12.01** Unless the Court otherwise directs, counsel for the party in whose favor a judgment is rendered shall **within five days** thereafter submit the journal entry to opposing counsel. Opposing counsel shall approve or reject the entry **within three days** after receipt. If the entry shall not be approved or rejected, the entry shall be submitted to the Court indicating approval by signature of counsel, or submission without approval. All agreed entries, decrees, or entries submitted without objection of opposing counsel, shall include the signature of all counsel or indication of counsel's telephone authority for approval. When counsel approves the entry, it shall be signed and presented to the Court for approval. All entries, decrees, and other papers submitted to the Court for filing shall be presented with the appropriate copies for distribution.

**12.02** The final entry shall designate how court costs are to be paid.

310/440

**12.03** If counsel fails to present any entry within twenty days after the judgment is rendered, the Court may cause the proper entry to be prepared and filed without submission or notice to counsel or take such other action as may be appropriate under the circumstances.

**12.04** Counsel shall promptly submit any settlement entry to the Court. In the event that counsel fails to present the entry to the Court within twenty days after counsel has informed the Court that the case is settled, the Court, after providing notice to counsel, may order the case dismissed pursuant to Civil Rule 41.

### **RULE 13 – CIVIL CASE MANAGEMENT PLAN**

For the purpose of ensuring the readiness of cases for trial, the Court shall issue a case management plan in each civil case.

**13.01** The case management plan shall give notice of the pretrial, discovery cut-off dates, and the trial or final hearing date.

**13.02** In the case of administrative appeals, a briefing schedule shall be ordered and a non-oral hearing date scheduled:

(A) Appellant's assignment of errors brief **due 40 days** after the filing of the notice of appeal;

(B) Appellee's brief in response **due 30 days** after service of appellant's brief;

(C) Appellant may file a reply brief **due 14 days** after service of appellee's brief in response;

(D) The matter will be determined at the non-oral hearing.

**13.03** If service of summons is not completed, notice shall be given to the party or counsel directing that unless service is obtained, the case will be dismissed pursuant to Civil Rule 41 **within 14 days** of the date of the notice.

**13.04** If service is made by publication:

(A) After the last publication, the publisher or its agent shall file with the Court an affidavit showing the fact of publication together with a copy to the notice of publication;

**(B) 28 days** after the last publication, the case shall be scheduled for hearings.

#### **RULE 14 – CRIMINAL CASE MANAGEMENT PLAN**

**14.01** To ensure the just determination of every criminal proceeding before the Court, the Ohio Rules of Criminal Procedure shall be strictly adhered to.

**14.02** The Court may schedule pre-trials in criminal matters; however, the trial judge will not participate in the actual pretrial.

**14.03** When a bond is posted in a criminal case, the rotary fee of \$60.00 must also be paid with the exception of Public Defender clients.

**14.04** When a bond is posted in a criminal case, a \$25.00 surcharge fee must be paid by either the individual posting the bond or the bonding company.

#### **RULE 15 – FILES**

**15.01** There shall be **NO** files taken from the Clerk of Court's Office.

**15.02** Where parties or their counsel deem it necessary to have copies of pleadings, the Clerk shall furnish copies at the expense of the requesting party.

#### **RULE 16 – JUDICIAL SALES**

**16.01** Action Shall Be Prosecuted In The Name Of The Real Party In Interest.

Rule 17 of the Ohio Rules of Civil Procedure shall be strictly enforced in all mortgage foreclosure actions. The following information shall be contained in the complaint:

**(A)** A copy of the note, along with an affirmative statement in the body of the complaint that the plaintiff is the holder in due course of the note. If the note does not reflect that the plaintiff is the holder on its face, a copy of an assignment of the note shall be filed, demonstrating that the plaintiff is the owner and holder of the note.

**(B)** A copy of the mortgage securing payment of the note, demonstrating that the plaintiff is the mortgagee of the mortgage. If the mortgage does not reflect that the plaintiff is the mortgagee on its face, a copy of the recorded assignment of mortgage shall be filed,

310/442

demonstrating that the plaintiff is the mortgagee. If the mortgage has been assigned numerous times, a copy of each recorded assignment shall be filed.

(C) Failure to comply with the foregoing provisions of this rule shall be grounds for dismissal of the case without prejudice as to any further action, on the motion of any party, or the Court's own motion, without any prior notice to the attorney prosecuting the action.

**16.02 Property Information Required In Complaint; Requirement for Preliminary Judicial Report Or Commitment For An Owner's Fee Policy Of Title Insurance; Legal Description Approval Required; Format.**

(A) The complaint shall state whether the property does or does not consist of more than four single family units or of commercial real estate.

(B) If the property does not consist of more than four single family units or of commercial real estate, a preliminary judicial report and final judicial report shall be filed in accordance with O.R.C. §2329.191(B). If the property consists of more than four single family units or of commercial real estate, a commitment for an owner's fee policy of title insurance shall be filed in accordance with O.R.C. §2329.191(C). The invoice for the cost of the title insurance policy, commitment cost, related expenses, and cancellation fees, if any, shall be filed **WITHIN THREE (3) DAYS** after the Sheriff's return has been filed.

(C) The legal description for each parcel of real property shall have an approval or conditional approval stamp from the Tax Map Department of the Knox County Engineer's Office affixed. In the event that a new survey of the subject real estate is necessary in order to secure a legal description acceptable for transfer purposes, contemporaneously with the filing of the complaint, the attorney for the plaintiff shall file a motion for authority to enter onto the subject property for the purposes of obtaining a new survey, along with a proposed entry. If the motion is granted, the cost of the survey shall be taxed as costs in the proceeding. The new description shall be submitted to the Tax Map Department of the Knox County Engineer's Office for a determination of acceptability of transfer, and a statement pertaining thereto shall be secured from the Tax Map Department of the Knox County Engineer's Office and filed with the Court. An Order of Sale shall not issue unless the description of the real estate is acceptable for transfer by the Tax Map Department of the Knox County Engineer's Office.

**(D)** Property information shall be contained in the body of the complaint; in an attachment to the complaint; or, in cases where a new survey is required, in a supplemental pleading, in the following format:

Legal Description

Prior Instrument Reference

Parcel Number

Address or Location of Property

Statement As To Whether The Property Does Or Does Not Consist Of More Than Four Single Family Units, Or Of Commercial Real Estate.

**16.03** Knox County Treasurer As Party Defendant; Other County Officers as Defendants in Official Capacity

**(A)** The Knox County Treasurer shall be made a party defendant in any action demanding the judicial sale of real property; however, the treasurer need not file an answer or other responsive pleading in response to any complaint or cross-claim. No pleading need be served upon, or approved by, the Treasurer, other than the Entry Confirming Sale and Ordering Deed, or other entry which determines the amount of taxes due on a parcel of real property. Failure to name the Knox County Treasurer as a party defendant shall not affect the validity of the real property tax lien of the State of Ohio or the validity of any Order of Sale, so long as all real estate taxes and assessments are paid in full through the tax proration date set forth in Local Rule 16.07(A). In cases other than tax foreclosures, it shall be conclusively presumed that real estate taxes and assessments are not at issue unless the case caption conforms with Local Rule 16.03(B).

**(B)** This rule shall not apply to tax foreclosure actions, or to any case in which the amount of taxes and special assessments of a parcel of real property is at issue. In cases other than tax foreclosures, the case caption shall contain the legend "Taxes Contested" or "With Cross-Claim Contesting Taxes" in 12 point bold type, in a manner substantially similar to the following examples:

**COMPLAINT**  
***Mortgage Foreclosure***  
**Taxes Contested**

-or-

**ANSWER**  
**With Cross-Claim Contesting Taxes**

**(C) Other County Officers as Parties Defendant**

In any action where county officers are named as defendants in their official capacity, the named office may waive service of the original Complaint by filing a written waiver of service and consent to service of process.

**16.04** Praecept for Order Of Sale.

**(A)** A copy of the approved legal description, prior instrument reference, parcel number, and address or location of property, shall be included in, or attached to, the Praecept for Order of Sale.

**16.05** Sheriff's Sales; Private Selling Officer Rule; Deposits, Payment of Balance of Purchase Price; Interest; Exceptions.

**(A)** In every action demanding the judicial or execution sale of real estate, the Knox County Sheriff shall offer to sell the real estate at a public auction. No motion or application for the appointment of a specified private selling officer shall be granted by the Court pursuant to Revised Code Section 2329.152 until after the Knox County Sheriff shall have offered to sell the real estate at a public auction at least one time. All judicial or execution sales of real estate, whether by the Knox County Sheriff or by a private selling officer appointed by the Court shall be conducted in accordance with these Local Rules, and in accordance with Revised Code Section 2329.152.

**(B)** The unpaid balance of the purchase price, along with a \$75.00 fee for the Sheriff's administrative costs in recording the deed and County Recorder's fees, shall be due and payable to the Sheriff within 30 days from the date of confirmation. The purchaser shall pay interest on the unpaid balance of the purchase price at the annual rate of interest provided in O.R.C. §1343.03 from the date of confirmation to the date of payment of the balance, unless the balance is paid **WITHIN THIRTY DAYS** from the date of confirmation.

**(C)** Any interest received shall be distributed by the Sheriff to the parties entitled to distribution of the proceeds of sale in the proper order of priority.

**16.06** Court Certificate of Release Required For Costs Bill.

**(A)** Within seven (7) days after the property has been sold at Sheriff's Sale, the attorney who filed the writ of execution shall prepare and file with the Clerk of Courts a Court Certificate of Release for each lien to be released in the Entry Confirming Sale and Ordering Deed (Form 96-07 appended hereto). The Clerk of Courts shall thereupon determine the cost of filing the Court Certificates of Release, and shall include the amounts in the costs bill. If a partial release is requested, a legal description conforming to Local Rule 16.02(D) shall be attached to the Court Certificate of Release.

**16.07** Presumptive Date of Confirmation Of Sale.

**(A)** For purposes of calculating prorated taxes as required by O.R.C. §323.47, the presumptive date of confirmation of sale shall be forty-five (45) days after the date of the Sheriff's Sale. At the option of the attorney preparing the Entry Confirming Sale and Ordering Deed, the presumptive date of confirmation of sale may be any date forty-five (45) days or more after the date of the Sheriff's Sale.

**16.08** Sheriff's Return; Costs Bill; Entry Confirming Sale And Ordering Deed; Attorney To Prepare Deed.

**(A)** Not later than seven (7) days following the date of the sale, the Sheriff shall file a return with the Clerk of Courts. The Clerk of Courts shall prepare a costs bill within seven (7) days after the Sheriff's return and Court Certificates of Release have been filed. Counsel for the party or parties that obtained the Order of Sale shall prepare and file a proposed Entry Confirming Sale and Ordering Deed, and serve copies upon all parties not in default, or their attorneys of record, by regular mail, within seven (7) days after the costs bill has been determined. The attorney preparing the Entry Confirming Sale and Ordering Deed may, but need not, obtain the approval of other parties or their attorneys prior to the filing of the proposed entry. If all parties or their attorneys have approved the entry, the Court shall approve and file the entry forthwith; otherwise, the procedures set forth in Local Rule 16.08 (B) shall apply. Failure to prepare and file the proposed Entry Confirming Sale and Ordering Deed within the time limits may result in sanctions being imposed.

**(B)** Unless proper written objection to the proposed Entry Confirming Sale and Ordering Deed is **filed with the Clerk of Courts** by a party within **fourteen (14)** days after the service date of the proposed Entry Confirming Sale and Ordering Deed, the proposed entry shall be approved by the Court and filed with the Clerk forthwith. If proper written objection is filed an order determining the issue shall be made by the Court.

**(C)** On the day the Court's Entry Confirming Sale and Ordering Deed is filed, the Clerk of Courts is hereby directed to make an entry on the journal that the Court is satisfied with the legality of such sale and that the attorney who filed the writ of execution shall make to the purchaser a deed for the lands and tenements. It shall be the responsibility of the attorney who filed the Entry Confirming Sale and Ordering Deed to monitor the docket and prepare the deed in a timely manner.

**16.09** Preparation and Filing of Sheriff's Deed; Notice To Purchaser Of Date Balance Of Purchase Price Due.

**(A)** Upon receipt of the deed, the Sheriff shall forthwith inform the purchaser that a deed has been prepared and that the balance due on the purchase price must be paid within thirty (30) days after the date of confirmation.

**(B)** The Sheriff shall record the deed with the Knox County Recorder within fourteen (14) business days of the date the purchaser pays the balance due on the purchase price of the lands and tenements.

**16.10** Failure Of Purchaser To Pay Balance Due.

**(A)** In the event a purchaser fails to pay the balance due on the purchase price and complete the purchase within thirty (30) days after the date of confirmation, the purchaser may be held in contempt of Court and any party in the case may cause a citation to issue commanding such defaulting purchaser to appear before the judge having charge of the matter and show cause why the purchaser should not be punished. Upon a finding of guilty of contempt, the Court shall proceed in accordance with O.R.C. §2329.04.

**16.11** Appraisers 'Fees.

**(A)** Appraisers shall be provided reasonable and proper fees, as determined by the Court in partition actions, or as determined by the Knox County Sheriff in other actions.

### **Rule 16 Notes:**

1. Parcel information is available at <http://www.knoxcountyauditor.org>.
2. Docket entries may be viewed at <http://www.coc.co.knox.oh.us/pa>.
3. Sheriff's Sales may be tracked at <http://www.knoxcountysheriff.com/civildivision.htm>.

### **RULE 17 – NOTARIES PUBLIC**

**17.01** To assist the Court in performance of its duties pursuant to O.R.C §147, the position of Notaries Public Examiner is hereby established.

**17.02** The Examiner shall certify to the Court the applicant for commission's moral character, qualifications, and ability to perform the duties of a notary public. First time applicants and persons whose commission has been expired for more than five years must take and pass a written exam prepared and administered by the Examiner.

**17.03** To obtain a statewide notary commission, the applicant must be of good moral character, a Knox County resident, and be possessed of sufficient qualifications and the ability to discharge the duties of the office of notary public. Application forms and instructions may be obtained from the Notary Clerk, Clerk of Courts, 117 East High Street, Mount Vernon, Ohio 43050. A fee of \$18.00 must be submitted at the time of the application. Applicants will be given the time and location of the administration of the written examination. Applicants must take the written examination **within 90 days** of the application.

**17.04** The Clerk shall disburse the \$18.00 fee paid by the applicant as follows:

- \$10.00 to the Examiner
- \$3.00 to the Clerk of Courts
- \$5.00 to the Knox County Bar Association

**17.05** The fee for a renewal is \$5.00 to be paid to the Clerk of Courts.

### **RULE 18 – AUTOMATED DATA PROCESSING FOR SELECTION OF JURORS**

As prescribed by O.R.C. §2313.21, the Court shall use automated data processing for the selection of jurors.

## **RULE 19 – JURY USE AND MANAGEMENT**

**19.01** The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

Jury service is an obligation of all qualified citizens of Knox County, Ohio.

**19.02** Pursuant to Court order, the jury source list shall be obtained from the Board of Elections' list of registered voters. The Court shall designate a key number based on the total number of registered voters and the number of jurors needed for a year of service.

The Jury Commissioners shall then receive a computer printout from the Board of Elections (for example, every 14<sup>th</sup> name).

**19.03** The jury source list shall be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

**19.04** The Court shall annually review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

**19.05** Should the Court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action shall be taken.

**19.06** The jury source list from Board of Elections shall be printed. Names are then computer generated for random drawing during a public jury drawing.

### **19.07 Eligibility for Jury Service**

**(A)** All persons shall be eligible for jury service except those who:

- 1.** Are less than eighteen years of age;
- 2.** Are not citizens of the United States;
- 3.** Are not residents of the jurisdiction in which they have been summoned to serve; to wit, Knox County;
- 4.** Are not able to communicate in the English language; or
- 5.** Have been convicted of a felony and have not had their civil rights restored.

**19.08** Term of and availability for Jury Service

(A) The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

(B) Jurors shall be "on call" for a one-month period. They do not report every day. The Bailiff's office has a telephone system whereby jurors call to hear a message which informs them as to whether they are still needed for jury service.

**19.09** Exemption, Excuse, and Deferral

(A) Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official.

(B) Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded.

**19.10** Voir Dire

(A) Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

(B) To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin. Jury questionnaires shall not include addresses or telephone numbers of jurors, and no copies may be made of the questionnaires. At the conclusion of voir dire, all questionnaires shall be returned to the jury commissioner.

(C) The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

(D) The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

(E) In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

310/450

**(F) Rules on Voir Dire**

1. The case may not be argued in any way while questioning the jurors.
2. Counsel may not engage in efforts to indoctrinate jurors.
3. Jurors may not be questioned concerning anticipated instructions or theories of law. This does not prevent general questions concerning the validity and philosophy of reasonable doubt or the presumption of innocence.
4. Jurors may not be asked what kind of verdict they might return under any circumstances.
5. Questions are to be asked collectively of the entire panel whenever possible.

**(G) Removal from the Jury Panel for Cause**

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

**(H) Peremptory Challenges**

Rules determining procedure for exercising peremptory challenges shall be in accordance with the Ohio Civil and Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority.

**19.11 Administration of the Jury System**

**(A)** The responsibility for administration of the jury system shall be vested exclusively with the Knox County Common Pleas Court.

**(B)** All procedures concerning jury selection and service shall be governed by the Ohio Rules of Court.

**19.12 Notification and Summoning Procedures**

**(A)** The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person shall be:

1. Phrased in a manner readily understandable by an individual unfamiliar with the legal and jury systems; and
2. Prepared by the Sheriff and served by ordinary mail.

**(B)** A summons should clearly explain how and when the recipient must respond and the consequence of a failure to respond.

**(C)** The jury questionnaire should be phrased in a manner and organized to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;
2. Providing basic background information ordinarily sought during voir dire examination; and
3. Efficiently managing the jury system.

**(D)** Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

**(E)** Jurors who fail to report for service may be scheduled for a contempt hearing to inform the judge as to why they did not appear. Sanctions may be imposed as warranted.

### **19.13** Monitoring the Jury System

The Court shall collect and analyze information regarding the performance of the jury system annually in order to evaluate:

- (A)** The representativeness and inclusiveness of the jury source list;
- (B)** The effectiveness of qualification and summoning procedures;
- (C)** The responsiveness of individual citizens to jury duty summonses;
- (D)** The efficient use of jurors; and
- (E)** The cost effectiveness of the jury management system.

### **19.14** Juror Use

**(A)** The Court shall employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

**(B)** The Court shall determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

#### **19.15 Jury Facilities**

**(A)** The Court shall provide an adequate and suitable environment for jurors.

**(B)** The entrance and registration area shall be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.

**(C)** Jurors shall be accommodated in pleasant waiting facilities furnished with suitable amenities.

**(D)** Jury deliberation rooms shall include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms shall be insured.

**(E)** To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

#### **19.16 Juror Compensation**

**(A)** Persons called for jury service shall receive a reasonable fee for their service and expenses pursuant to statutory authority.

**(B)** Such fees shall be paid promptly.

**(C)** Employers shall be prohibited from discharging, laying off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Notes: Upon completion of the jury term, all jurors will receive payment through the Knox County Auditor's Office.

#### **19.17 Juror Orientation and Instruction**

**(A)** The Court shall provide some form of orientation or instructions to persons called for jury service.

**(B)** The trial judge shall:

- 1.** Give preliminary instructions to all prospective jurors;
- 2.** Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures, including note taking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
- 3.** Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of deliberations. Such instructions should be made available to the jurors during deliberations;
- 4.** Prepare and deliver instructions, which are readily understandable by individuals unfamiliar with the legal system;
- 5.** Utilization of written instructions is preferable; and
- 6.** Before dismissing a jury at the conclusion of a case, the trial judge should:
  - a.** Release the jurors from their duty of confidentiality;
  - b.** Explain their rights regarding inquiries from counsel or the press;
  - c.** Either advise them that they are discharged from service or specify where they must report; and
  - d.** Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

**(C)** All communications between the Judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

#### **19.18** Jury Size and Unanimity of Verdict

Jury size and unanimity in civil and criminal cases shall conform to existing Ohio law.

#### **19.19** Jury Deliberations

30/454

**(A)** Jury deliberations shall take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making and shall conform to existing Ohio law.

**(B)** The Judge shall instruct the jury concerning appropriate procedures to be followed during deliberations.

**(C)** A jury shall not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

**(D)** Training shall be provided to personnel who escort and assist jurors during deliberation.

#### **19.20 Sequestration of Jurors**

**(A)** A jury shall be sequestered only for good cause, including, but not limited to, insulating its members from improper information or influence.

**(B)** The jury shall be sequestered after a capital case is submitted to the jury in conformity with existing Ohio law.

**(C)** The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

**(D)** Standard procedures shall be promulgated to:

1. Achieve the purpose of sequestration; and
2. Minimize the inconvenience and discomfort of the sequestered jurors.

**(E)** Training shall be provided to personnel who escort and assist jurors during sequestration.

#### **RULE 20 – TRANSCRIPT PROCEDURES**

The Clerk shall not permit any party or any person to make a copy of or remove trial transcripts from a file. Attorneys, parties to the action, or other interested parties shall be referred to the Court Reporter of the Court in which the case is pending or in which the case was tried.

## **RULE 21 – MEDIATION**

**Effective January 2007**, The Court of Common Pleas incorporates by reference the O.R.C. §2710. "Uniform Mediation Act" (UMA) and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

After service of summons in any civil action, the Court may order the parties to participate in mediation assessment. The Court may waive participation in mediation assessment if the parties have previously entered mediation.

If the parties agree to mediation, the Court may permit and encourage both parties to participate in mediation for a period of time **not to exceed ninety (90) days**. If the parties agree to mediate, the Court will stay the court proceedings, and mediation sessions may be reconvened from time to time until all issues are resolved in a manner mutually acceptable to the parties or until the mediator determines continued effort would not be productive. The Court may order parties to participate in or return to mediation regarding contested issues.

The parties or their attorneys shall notify the Court upon the conclusion of mediation if the parties have reached an agreement on all or some issues. Any agreement reached during mediation shall not be binding upon the parties until reviewed and approved by their counsel and the Court.

The Judge or Magistrate may refer cases for mediation by Court order.

All communications related to mediation or made during the mediation process shall be pursuant to and subject to the provisions of the "Uniform Mediation Act", O.R.C. §2710.01 to §2710.10, §3109.052, the Rules of Evidence, and any other pertinent judicial rule, and shall be governed by the privileges as set forth in the UMA. Mediators will not be permitted to testify regarding the substance of the mediation negotiations, including, but not limited to, cooperation or non-cooperation of the parties.

The efforts of the Mediator shall not be construed as giving legal advice.

### **21.01 – PROCEDURES**

The Court shall utilize procedures for all cases that will:

- (A)** Ensure that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals designated are allowed to accompany them and participate in mediation.

Screen for domestic violence both before and during mediation.

Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.

**(B)** Prohibit the use of mediation in any of the following:

As an alternative to the prosecution or adjudication of domestic violence;

In determining whether to grant, modify or terminate a protection order;

In determining the terms and conditions of a protection order; and

In determining the penalty for violation of a protection order.

Nothing in Division (B) of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of provisions of a protection order.

## **RULE 22 – CIVIL/STALKING PROTECTION ORDER HEARINGS**

Either the Judge or Magistrates have the authority to issue and/or conduct hearings on both *ex parte* and full hearings on Civil/Stalking Protection Order petitions.

At the discretion of the Court, hearings on *ex parte* orders may be conducted upon affidavit only.

**Rule 22.01** – Any Petition for an *ex parte* Civil Protection Order filed on or after 3:00 p.m. shall not be considered by the Court until the next business day that the Court is in session.

## **Rule 23—Court Security**

The Ohio Supreme Court has promulgated Court Security Standards for all courts of Ohio. The Knox County Common Pleas Court has adopted policies and procedures in accordance with the Ohio Supreme Court Security Standards. The Court Bailiff, and the Chief Probation Officer are designated as the Court Security Officers with full authority of the Court to assure the safety of all Court personnel and the public. All persons entering the Court of Common Pleas shall submit to any order of a Court Security Officer. No weapons shall be permitted in the court facility except those carried by court security personnel, or OPOTA certified Knox

310/457

County law enforcement officers. No person who is a party to a judicial proceeding as a plaintiff, defendant, witness or other interested party acting outside of the scope of their employment shall be permitted to bring weapons into the Court.

## **RULE 24 - APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS**

### **General Procedures and Guidelines**

#### **1. Office of the Ohio Public Defender**

The office of the Ohio Public Defender reimburses counties for a portion of their appointed counsel costs, in accordance with the *Ohio Public Defender Standards and Guidelines and State Maximum Fee Schedule for Appointed Counsel Reimbursement*. These standards and guidelines of the Ohio Public Defender are incorporated herein by reference. A copy of the standards and guidelines, and all forms which are required for compliance with the standards and guidelines, and these Local Rules, can be found at [www.opd.ohio.gov](http://www.opd.ohio.gov).

#### **2. County Responsibilities**

The County is responsible for paying attorneys and guardians *ad litem* for appointed counsel services. The County Auditor makes payment after the attorney or guardian *ad litem* has submitted the appropriate forms to the Court, and the Court has approved payment of requested fees and expenses. The County Auditor shall then seek reimbursement for these expenses from the Office of the Ohio Public Defender. The County Auditor shall ensure that all necessary materials are correctly completed and submitted by county warrant number to the Office of the Ohio Public Defender within the allowable time limits. The County Auditor shall withhold payment of assigned counsel fees until the assigned counsel has fully completed and submitted all required documentation on approved forms within the allowable time limits required for the county to obtain reimbursement.

#### **3. Court Responsibilities**

The Court shall appoint counsel and guardians *ad litem* on a case by case basis to represent indigent persons who qualify for representation. The Court shall review and approve fees and expenses requested by appointed counsel or guardians *ad litem* which are properly and timely submitted on all required forms, in accordance with the time keeping and reporting standards and on the required forms as prescribed by the Ohio Public Defender.

**4. Attorney and Guardian *Ad litem* Responsibilities**

To receive payment for fees and expenses, an attorney or guardian *ad litem* must correctly complete the form(s) prescribed pursuant to the *Ohio Public Defender Standards and Guidelines and State Maximum Fee Schedule for Appointed Counsel Reimbursement*. All forms submitted must be originals or photocopies of forms prescribed by the Ohio Public Defender, or be produced using the software issued by the Ohio Public Defender. See [www.opd.ohio.gov](http://www.opd.ohio.gov). The fully completed and correct forms must be *timely submitted* to the Court for approval in order for an attorney or guardian *ad litem* to receive payment for fees and expenses incurred on each case for which the attorney or guardian *ad litem* is appointed. For purposes of this rule, "timely submitted" means no later than 30 days after the end of the month of the last day in court for trial, sentencing or other final disposition of the matter. For post-trial motions and appeals, separate applications for payment of fees and expenses should be submitted to the Court for approval unless extended by the Court

**5. APPOINTED COUNSEL COMMITTEE**

Membership of the Appointed Counsel Committee: The Common Pleas Court and the Juvenile Court shall jointly appoint an Appointed Counsel Committee which shall include the Common Pleas Judge, the Juvenile Court Judge, one member of the local bar association, and one member of the county public defender commission.

Purpose of the Appointed Counsel Committee: The purpose of the Appointed Counsel Committee is to:

1. To create an appointment list from which counsel shall be selected to represent indigent defendants in criminal cases;
2. To approve an application form and process to be used by counsel seeking to be listed on the appointment list;
3. To approve applications from counsel for inclusion on the appointment list;
4. To determine which counsel, based upon experience, qualifications and the quality of representation, are eligible to handle more serious cases and cases requiring specialized skills;
5. To evaluate the performance of private counsel representing indigent defendants in criminal cases;
6. To remove private counsel from the appointment list;
7. To require private counsel, when appropriate, to undertake remedial action in order to remain on the appointment list; and

310/450

8. To require private counsel to undertake appropriate continuing legal education.

Action by Appointed Counsel Committee: Any action taken by the Appointed Counsel Committee shall be approved by a majority of the members.

### **APPOINTED COUNSEL LIST**

Inclusion on the Appointment list: Any attorney in good standing with the Ohio Supreme Court may apply to be included on the appointment list. In order to be considered for inclusion on the appointment list, counsel shall submit:

1. A completed application form approved and provided by the court and signed by the applicant.
2. Upon request, verification that the applicant is current in compliance with CLE (as required by the Ohio Supreme Court);
3. Verification of compliance with the minimum qualifications and training required to handle cases under OAC 120-1-10, or if already on the list, to be approved to handle more serious cases.

The Application Process: The Appointed Counsel Committee shall meet as necessary in order to review applications for inclusion on the appointment list. After review of the pending applications, the Committee shall either approve or disapprove each applicant for inclusion on the appointed counsel list. A list of all qualified and approved appointed counsel as well as the qualifications of counsel to handle specific degrees of cases and those attorneys who are authorized to handle cases requiring specialized skill.

### **APPOINTMENT OF COUNSEL**

Appointment of Counsel for Indigent Defendants: Appointment of counsel shall be made by the Court on a sequential, rotating basis from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the person to be appointed. It may be in the interest of justice for a court to deviate from a sequential rotation to select an individual attorney whose expertise or experience is particularly well suited to a given case or client.

A record of how many cases each attorney has been appointed to and how many cases have been declined shall be maintained.

## **REMOVAL OF APPOINTED COUNSEL**

Removal from the Appointment list: Counsel may be removed from the appointment list for failure to comply with the Code of Professional Responsibility; the Ohio Rules of Criminal Procedure; the Ohio Public Defender Commission's Attorney Qualifications to Represent an Indigent Client, the Rules of Practice of the Court, or the violation of any statute or administrative code or rule regarding the representation of clients, or any similar action or inaction that jeopardizes high quality representation of the person to whom counsel was appointed to represent.

Removal from the Appointment List: An attorney may be removed by a vote of the appointment of counsel committee.

Any attorney removed from the appointment list may apply for reinstatement after complying with any required remedial action or waiting period specified by the appointment of counsel committee, providing the attorney completes the application process anew.

Remedial Action: The appointment of counsel committee may require remedial action of an attorney in lieu of removal and may require remedial action before an attorney may seek reinstatement to the appointment list after removal.

### **Determination of Indigency and the Financial Disclosure/Affidavit of Indigency**

1. An applicant's indigency and eligibility for a reimbursement, recoupment, contribution, or partial payment program shall be determined by the Court, after application has been made to the Knox County Public Defender's office. The applicant shall complete the financial disclosure form (form OPD-206R: Financial Disclosure/Affidavit of Indigency), and all other forms required by the Knox County Public Defender's office, and shall comply with all rules promulgated by this Court, the Ohio Public Defender Commission, and the Knox County Public Defender Commission. The Financial Disclosure/Affidavit

of Indigency form shall be notarized, or witnessed by an individual who is authorized to administer oaths.

2. In cases where the applicant is unable to complete the Financial Disclosure section and/or sign the Affidavit of Indigency section, the form may be completed and designed by the parent, a person *in loco parentis*, or the guardian *ad litem*, or the judge or magistrate hearing the case may complete and sign the Certification section in lieu of a signature on the affidavit. Magistrates who certify the form are to list their title under their signature.
3. No applicant shall be denied counsel based on the financial status of a member of the client's household when that household member has no legal duty to support the applicant, or when that household member refuses to provide or pay for counsel.
4. No child shall be denied counsel solely because the child's parents or guardians are unwilling to disclose their financial status or to provide or pay for counsel.

#### **Persons becoming Indigent During Their Case**

1. Persons becoming indigent during their case may be eligible for appointed counsel upon application and certification of indigency in accordance with these Local Rules.

#### **Forms Required**

1. All applications for indigency, payment, and reimbursement shall be made upon the forms prescribed by the Office of the Ohio Public Defender. Forms submitted must be originals or photocopies of forms prescribed, or be produced using the software issued by the Ohio Public Defender. No incomplete or improperly completed forms will be accepted, and no payments shall be authorized unless the fully completed forms are submitted within the times prescribed by the Ohio Public Defender Standards and Guidelines. Attorneys are encouraged to obtain the free software available from the Office of the Ohio Public Defender at [www.opd.ohio.gov](http://www.opd.ohio.gov).

#### **Itemization of Attorney Hours/Time Logs**

1. For attorney fees and expenses, the itemization of hours spent in-court and out-of-court by the attorney is required on every Motion, Entry, and Certification form submitted. Hours must be itemized on all forms in tenth of

- an hour (6 minute) increments. Separate time records are to be maintained by all attorneys for each appointed case showing the date of service, nature of services rendered, and hours worked. These records are not to be turned in with the attorney billing, but may be requested from the attorney in the event that the court or the Ohio Public defender has questions about the billing. The suggested format for maintaining such time is on form OPD-1028: *Attorney Time Log*. Attorneys may use their own forms or billing programs so long as equivalent data can be produced, if requested. Such records should be kept by the attorney for a minimum of five years from the date the related Motion, Entry and Certification form was submitted to the Court.
2. All Motion, Entry and Certification forms must be signed by the judge or magistrate hearing the case for which payment request is being made. In appellate proceedings, the signature of one or more of the appellate judges hearing the appeal must appear on the Motion, Entry and Certification form.

### **Maximum Attorney Fees**

1. Except in cases involving extraordinary fees, payment for attorney fees is limited to the maximum rates and amounts established by the Ohio Public Defender, and as prescribed by the Knox County Board of Commissioners, pursuant to the current Resolution Approving a Schedule of Hourly Rates and Maximum Assigned Counsel Fees To Be Paid For Legal Representation Of Indigent Defendants. A copy of the most recent Resolution 101-2016-62-2017 is attached to these Local Rules as an Appendix.

### **Domestic Relations Court**

1. In Domestic Relations Court, payment shall be made only in cases involving contempt and where such requests are in compliance with all other provisions of these Local Rules.

### **Reimbursement of Expenses**

Attorneys may be reimbursed for expenses, in accordance with the Ohio Public Defender's Standards and Guidelines, to the extent those expenses are specifically allowed in the fee resolution adopted by the Knox County Commissioners. The appointing Court must approve the expenses. All expenses must be itemized on the proper form, and a receipt must accompany all expenses that exceed \$1.00. If the identification of the payee or the nature of the expense raises questions of confidentiality or of attorney-client privilege, the applicant may make such indication on the form, and attach an appropriate entry of approval from the Court. Transcript expenses

must be submitted on Form 205, and Expert Expenses must be submitted on Form 209. Travel expenses must be itemized on the Motion, Entry and Certification Form, including mileage, airfare, lodging, meals, and other miscellaneous items. A receipt must accompany all travel expenses exceeding \$1.00. Expenses for lodging and meals are reimbursable only when the attorney travels over 45 miles one way from the attorney's home or office for purposes of representing an indigent client, *and* when an overnight stay is required.

Attorney fees for time spent in-transit and expenses for mileage and parking are reimbursable only when the attorney travels to a city outside of the city in which the attorney resides or maintains an office. Reimbursement will not be made for attorney fees and/or expenses incurred between the attorney's home and office, the attorney's home and a court in the same city, or the attorney's office and a court in the same city.

An attorney may bill for hours spent in-transit between a specified point of departure and destination. Once the destination has been reached, the attorney may bill only for hours spent working on a case at the specified destination.

Transcript expenses for one original and one copy of a transcript are reimbursable only for the case for which the transcript was prepared, subject to the maximum of \$.10 per page (electronic copies are not reimbursable). Reimbursement for transcript expenses are to be paid directly by the Court, and reimbursed using Form OPD-E-205.

Requests seeking reimbursement for expert expenses which are incurred exclusively for the defense of the client and subject to the direction of defense counsel, and that were paid out-of-pocket by the attorney are to be itemized and submitted with either a receipt, or a copy of the expert's invoice, or both. The number of hours worked and the hourly rate charged must both be listed on the invoice and the receipt. Expert expenses that are incurred by order of the Court pursuant to R.C. 2945.371(K) shall be paid directly by the Court.

### **Representation of Alleged Indigent Defendants**

1. Unless otherwise represented, the Knox County Public Defender shall represent alleged indigent defendants in arraignments. At arraignment, the Knox County Public Defender shall prepare all requests for appointment of counsel. In the event that the Knox County Public Defender is unable to

continue representing the indigent defendant after arraignment, the Knox County Public Defender shall submit to the Court the completed request for appointment of counsel leaving the name of the counsel blank. The judge or magistrate hearing the case shall make appointment of either the Knox County Public Defender or private counsel from the Master Appointment List maintained by the Knox County Court of Common Pleas, General Division. The Clerk of Courts shall notify the Public Defender or private counsel of an appointment. A copy of the appointment Entry shall be filed with the Clerk, and must be attached to any fee application submitted by counsel for payment.

## **25 – CERTIFICATE OF QUALIFICATION FOR EMPLOYMENT**

The purpose of this local rule is to define the specific local court requirements and processes that support a Petitioner's application for Certificate of Qualification for Employment (CQE) as set forth in Revised Code 2953.25 and related rules established by the Ohio Department of Rehabilitation and Corrections (DRC).

- A.** In order to request a CQE, the Petition for Certificate of Qualification for Employment (RC 2953.25) [Form A] shall be filed with the Clerk of Courts by the Petitioner, after completing the petition process through the DRC ([www.drccqe.com](http://www.drccqe.com)). For security purposes, the Clerk and the Court do not avail computers to the public for Internet access.
1. The Petitioner shall provide the DRC Electronic Petition Number and attach a printed receipt of electronic Petition.
  2. All Petitions shall be accompanied by the Department of Rehabilitation and Corrections CQE Summary.
- B.** Before any action is required to be taken on the Petition, the Petitioner **RULE** must pay a filing fee in the amount of \$50.00. The Petitioner may submit an Affidavit of Indigency (Form B) or other relevant information for the Court's consideration if requesting a reduction in the filing fees. Said Affidavit of Indigency shall be submitted to the Court for approval prior to the filing of petition.
- C.** All social security numbers, except for the last 4 digits, financial account numbers, employer and employee identification numbers, and

other information that must be excluded from public record and shall be redacted prior to filing any document with the Clerk of Courts in accordance with the Rules of the Court and the Rules of Superintendence. Records or information received by a Court to assist the Court with making its decision under Section 2953.25 of the Revised Code, including information included on a petition, shall retain their character as public or non-public records, as otherwise provided in law.

- D.** Upon receipt of a Notice of Petition and the required deposit, the Clerk of Courts shall assign the Petition a miscellaneous civil case number. The Clerk of Courts shall provide a copy of all Petition filings to the Judge upon filing the Petition.
- E.** The Adult Court Services Officer assigned to the case shall obtain a criminal history for the Petitioner, either through the investigation ordered in support of the Petition (See Order for Investigation (Form F)) or otherwise.
- F.** The Adult Court Services Officer shall attempt to determine all other Courts in Ohio in which the Petitioner has been convicted of or pled guilty to an offense through review of the Petitioner's criminal history or other investigation.
  - 1. The investigating officer shall submit a list of these Courts to the Clerk of Court for purposes of notification and request for information.
- G.** The Clerk of Courts shall send a Notice to Court Regarding Petition for Certificate of Qualification for Employment (Form C) and Submission of Information Regarding Petition for Certificate of Qualification for Employment (Form E) to each Court identified on the list provided by the investigating officer. Such Notice shall be sent via ordinary U.S. mail.
- H.** The Clerk of Courts shall also send a Notice to Prosecutor Regarding Petition for Certificate of Qualification for Employment (Form D) and Submission of Information Regarding Petition for Certificate of Qualification for Employment (Form E) to the Prosecuting Attorney of the County in which the Petition was filed.
- I.** The Judge shall review the Petition, criminal history, all filings submitted by the Prosecutor or Victim in accordance with the rules

adopted by the division of parole and community services, and all other relevant evidence.

The Judge may order any report, investigation or disclosure by the Petitioner that it believes is necessary to reach a decision (See Order for Investigation (Form F) and Order for Additional Information (Form G)).

- J. Once all information requested has been received, the Judge shall decide whether to Grant (Form H) or Deny (Form I) the Petition within sixty days, unless Petitioner requests and is granted an extension of time.
- K. The Clerk shall provide a written notice to the Petitioner of the Court's Decision and Judgment Entry.
  - 1. If denied, the notice shall include conditions, if any, placed on subsequent filings and language that a final appealable order has been filed.
  - 2. The Clerk shall also notify the DRC of the disposition of the petition as required under the Administrative Rules, and if the petition is granted, the Clerk shall notify the DRC to issue the CQE to Petitioner.

## **RULE 26 – RECORDS OF HEARINGS/TRIAL & TRANSCRIPTS**

**Record requests.** Unless otherwise ordered by the Court, all matters of record shall be preserved by electronic recording. No record request is necessary for any hearing/trial.

**Ordering of Transcripts.** Any party appealing from a decision or order of the Court shall order a transcript of said hearing from which the appeal is made. All transcripts of proceedings must be transcribed by a certified court reporter designated by the Court. A party may move to appoint a particular transcriber or the Court may appoint a transcriber sua sponte; in either case the selection of the transcriber is within the sound discretion of the Court, so long as the Court has a reasonable basis for determining that the transcriber has the necessary qualifications and training to produce a reliable transcript.

The requesting party shall be responsible for contacting the certified court reporter and making arrangements for the costs of said transcript to be paid directly to the court reporter.

The transcript is considered ordered only after a signed request for transcript is filed with the Clerk of Courts. The Court Reporter shall use due diligence in preparing the transcript in a timely manner.

**Copies.** A copy of a hearing may be obtained by delivering a blank CD to the Court Bailiff. There is no charge for "burning" the CD.

**Requesting Copy of Filed Transcript.** A party may request a copy of a transcript that has been filed. The request must be in writing and filed with the Clerk of Court, with a copy provided to the Court. Payment in the exact amount, made payable to the certified court reporter who prepared the transcript, must accompany the request. Payment in the form of a money order, cashier's check, or check drawn on an attorney / law firm account shall be accepted. Cash payments and personal checks shall not be accepted.

**Costs.** The Clerk shall assess as costs the entire statutory amount per diem for each hearing or trial in which a record is required. Costs for the preparation and copying of transcripts shall be periodically established by an entry in the Court's journal.

**Appeals/Availability of Transcript for Copying.** Transcripts that have been transmitted to the Court of Appeals by the Clerk are not available for copying by the certified court reporter. Requests for copies should be directed to the Court of Appeals and arrangements may be made to accommodate the requests.

Case No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff,

v.

\_\_\_\_\_  
Defendant.

**Confidential Disclosure of Personal Identifiers**

**INSTRUCTIONS FOR FILER**

On and after July 1, 2009, Rules 44 and 45 of the Rules of Superintendence for the Courts of Ohio provide that parties and their attorneys should not include, or must redact where inclusion is necessary, certain personal identifiers in order to protect personal privacy. Rule 44 (E) defines personal identifiers to include: "social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; [and] employer and employee identification numbers . . ." Personal identifiers should be omitted or redacted from all case documents submitted to the Court or filed with the Clerk, unless otherwise ordered by the court. This Confidential Disclosure of Personal Identifiers form is furnished to encourage and facilitate compliance with the provisions of Rule 45(D) of the Rules of Superintendence for the Courts of Ohio. Rule 45 (D) prescribes use of this form to allow personal identifiers to be furnished to the court or clerk separately as may be necessary for use as permitted by law in the performance duties required of the court or clerk. The contents of this form will not be subject to public disclosure. Additional pages may be attached to this form as necessary.

**REFERENCE LIST**

	<b>NAME OF PARTY OR ENTITY TO WHICH OMITTED OR REDACTED PERSONAL IDENTIFIER APPLIES</b>	<b>COMPLETE PERSONAL IDENTIFIER</b> <i>Use this column to list the personal identifiers that have been redacted from the document.</i>	<b>CORRESPONDING REFERENCE</b> <i>Use this column to list the reference or abbreviation that will refer to the corresponding complete personal identifier.</i>	<b>LOCATION</b> <i>Use this column to identify the document or documents where the reference appears in place of the personal identifier.</i>
1.				
2.				
3.				
4.				
5.				

Check if additional pages are attached.

\_\_\_\_\_  
Signature of person submitting the information

310/469

**KNOX COUNTY CLERK OF COURTS**  
**FEE SCHEDULE**  
**EFFECTIVE 12/01/2017**

FILED  
**KNOX COUNTY**  
**COURT OF COMMON PLEAS**

2017 NOV 14 AM 11:22  
 MARY JO HAWKINS  
 CLERK OF COURTS

Civil Actions or Complaints <i>In CIVIL Actions: more than 5 defendants, add \$15. p/defendant up to 10 Multi party civil action, an additional charge of \$60. p/defendant after 10 defendants</i>	\$ 390.00
Jury Demand Fee (to be paid 4 weeks prior to trial)	\$ 350.00
Civil Cross-Complaint, Counterclaim or Third-Party Complaint	\$ 190.00
Divorce Complaints, Counterclaims, Dissolutions	\$ 340.00
All post-trial Domestic Actions, including counter motions	\$ 215.00
Post Decree QDRO and any entry that transfers retirement accounts	\$ 140.00
Criminal State Public Defender Application	\$ 25.00
Bail Bond Surcharge Fee	\$ 25.00
State Rotary Fee	\$ 60.00
Certificate of Qualification for Employment	\$ 50.00
Diversion Program	\$100.00
Expungement, Motion for Judicial Release	\$ 50.00
Writ of Possession	\$ 190.00
Writ of Habeas Corpus	\$ 100.00
Proceedings in aid of Execution, including Garnishments & Debtors Exams	\$ 165.00
Appeals from other Tribunals	\$ 100.00
Foreign Cases (outside Ohio)	\$140.00
Court of Appeals	\$ 90.00
Court of Appeals ~ Original Actions (Mandamus, Habeas Corpus, etc)	\$ 85.00
Cognovit Action (plus \$35.00 CJ Fee)	\$ 190.00
Certificate of Judgment issuing from & recorded in Knox County	\$ 35.00
Certificate of Judgment & Renewals issuing from another county & recorded in Knox County	\$ 30.00
Issuing out of County Judgment	\$ 5.00
Release of any Judgment, full & partial, except for State of Ohio Department (eg. Taxation) (includes court certificates of release)	\$ 5.00
Release of any State of Ohio Judgment filed <i>before</i> 01/01/1993 (includes Sales Tax & Workers Comp)	\$ 10.00
Release of any State of Ohio Judgment filed <i>after</i> 01/01/1993 (includes Sales Tax & Workers Comp...(Docket 25 Page 237)	\$ 35.00
Photocopies per page	\$ .05
Certification of any document	\$ 1.00
Notary Public Applications	\$ 18.00
Filing of Sheriff Election Candidacy Application	\$ 25.00
Recording of Optometry License	\$ 2.00

310/470

KNOX COUNTY COMMON PLEAS COURT  
OFFICIAL COURT REPORTER TRANSCRIPT FEES

(Effective 02/07/17)

Regular Rates Per Page:  
(Delivery in two weeks or more)

Original transcript + copy to same side	\$5.00
Copy to opposing party electronically, no charge)	
Copy to all others	\$2.00

Expedited Rates Per Page  
(Delivery as indicated, only  
applies to cost of original)

One Week delivery	\$5.75
3 to 5 day delivery	\$6.50
Overnight delivery	\$7.50

Indigent Rates Per Page:

Original transcript + copy to same side	\$4.00
Copy to opposing party electronically, no charge)	
Copy to all others	\$2.00

Indigent Expedited Rates  
Per Page:

One week delivery	\$4.25
3 to 5 day delivery	\$4.75
Overnight delivery	\$6.00

APPROVED:

  
\_\_\_\_\_  
RICHARD D. WETZEL, JUDGE

Date 2/7/17

310/471

## FORECLOSURE CHECKLIST

### PLEADING STAGE

- If the debt involves a promissory note, a legible copy of the promissory note was filed. If the mortgage was assigned, a copy of the assignment was filed.
- If the debt involves a mortgage (1) a legible copy of the mortgage was filed, and (2) the mortgage was signed and properly acknowledged, and these names match the names in the granting clause, and (3) the mortgage was recorded. If the mortgage has been assigned, a copy of each recorded assignment was filed.
- The pleading states whether the property does or does not consist of four or more residential units or commercial property.
- If the property does not consist of four or more residential units or commercial property, a Preliminary Judicial Report (PJR) has been filed not more than 14 days after the filing of the complaint or other pleading requiring a PJR.
- The PJR has an effective date current within 30 days prior to the filing of the complaint.
- The PJR covers the complete and correct property being foreclosed and includes the property's permanent parcel number, prior instrument reference, parcel number, and address or location of property.
- The legal description in the PJR is substantially identical to the legal description in the mortgage and the legal description has an approval or conditional approval stamp from the Map Office.
- The PJR lists the plaintiff as the real party in interest by showing a complete chain of assignments, if any.
- The PJR lists lesser estates, leaseholds, and liens, if any.
- The PJR lists the name and address of each lien holder and the name and address of each lien holder's attorney, if any, as shown on the recorded lien of the lien holder for each judgment lien.
- The PJR has been signed by an appropriate officer of the title company.
- If the property does consist of four or more residential units or commercial property, a commitment for an owner's fee policy of title insurance (TIC) has been filed not more than 14 days after the filing of the complaint or other pleading requiring TIC.
- The TIC has an effective date current within 30 days prior to the filing of the pleading.
- The TIC covers the complete and correct property being foreclosed and includes the property's permanent parcel number, prior instrument reference, parcel number, and address or location of property.
- The legal description in the TIC is substantially identical to the legal description in the mortgage and the legal description has an approval or conditional approval stamp from the Map Office.
- The TIC lists the plaintiff as the real party in interest by showing a complete chain of assignments, if any.
- The TIC lists lesser estates, leaseholds, and liens, if any.

310/472

- The TIC lists the name and address of each lien holder and the name and address of each lien holder's attorney, if any, as shown on the recorded lien of the lien holder for each judgment lien.
- The TIC has been signed by an appropriate officer of the title company.

In Conjunction with Any Dispositive Motion Filed by the  
Party Seeking Affirmative Relief

- A Final PJR or TIC has been filed.
- The Final PJR or TIC begins from the effective date of the PJR or TIC.
- The Final PJR or TIC has an effective date more recent than the date on which the action was filed (Lis Pendens date).
- The Final PJR or TIC includes a copy of the court's docket for the case.
- All persons listed on the PJR or TIC have been added as a party and have been properly served with service of process.
- In support of any dispositive motion, an affidavit of damages has been filed establishing: (1) the principal balance owed; (2) the interest computation date; and (3) the applicable interest rate.
- An affidavit regarding the Defendant(s) military/minority status has been filed.
- There are no bankruptcies related to this case, or the bankruptcy has been concluded, or a relief from stay granted.
- A proposed judgment entry granting a decree of foreclosure has been sent to the court.
- The entry accounts for all of the remaining parties in the case.
- The entry finds an amount of damages that matches the damages established in the above mentioned affidavit of damages.
- The entry covers the complete and correct property being foreclosed.
- The entry directs that the proceeds of the sale, if any, shall be held by the sheriff.
- The entry finds an amount of damages owing to any cross claimant matching the amount established by that cross claimant. However, the entry cannot make a finding for parties not requesting summary judgment or default judgment.
- All undetermined lien amounts in favor of other co-defendants are transferred to proceeds of sale.
- The entry finds that the mortgage being foreclosed upon is a good, valid and subsisting lien.
- The entry finds that the mortgage conditions have been broken, and the holder is entitled to foreclose.
- A praecipe for order of sale was filed after the judgment entry granting a decree of foreclosure was filed with the Clerk of Courts.

After the Sheriff's Sale

- A Certificate of Release for each lien to be released in the Entry Confirming Sale and Ordering Deed (Form flu 96-07) was filed with the Clerk of Courts within 7 days after the date of the Sheriff's Sale.
- Sheriff's return was filed with the Clerk of Courts within seven (7) days after the date of the Sheriff's Sale.
- Clerk of Courts completed costs bill within seven (7) days after the Court Certificates of Release and Sheriff's return were filed.
- A proposed Entry Confirming Sale and Ordering Deed was presented for approval.

310/473

- The total distribution in the entry matches the amount from the Sheriff's return of sale.
- The name of the purchaser(s) in the entry is correct and complete according to the Sheriff's return of sale.
- Taxes are prorated to at least forty-five (45) days after the date of the Sheriff's Sale.
- The entry provides that all outstanding liens are cancelled.
- The entry has either the signature of all parties not in default or states that it has been submitted to all parties not in default.
- The entry does not seek a deficiency judgment against parties who have bankruptcy protection.
- The deficiency amount, if any, is correctly stated in the entry.
- The entry lists the priority of liens in the correct order.
- All parties or their attorneys have approved the entry, or no objection was filed within 10 days after the entry was served on all parties.

After The Entry Confirming Sale and Ordering Deed Has Been Approved By The Court  
And Filed With The Clerk Of Courts

- On the day the court's Entry Confirming Sale and Ordering Deed is filed, the Clerk of Courts enters on the journal that the court is satisfied with the legality of such sale, and that the attorney who filed the writ of execution shall make to the purchaser a deed for the lands and tenements.
- Within seven (7) days after the Entry Confirming Sale and Ordering Deed has been approved by the court, and filed with the Clerk of Courts, the attorney who prepared the Entry Confirming Sale and Ordering Deed shall make to the purchaser a deed for the lands and tenements, and deliver it to the Sheriff.

The deed must contain:

- the names of the parties to the judgment
- the names of the owners of the property sold
- a reference to the volume and page of the recording of the next preceding recorded instrument by or through which the owners claim title
- the date and amount of the judgment
- the substance of the execution or order on which the property was sold
- the substance of the officer's return thereon
- the order of confirmation

- Sheriff informs the purchaser that a deed has been prepared, and that the balance due on the purchase price must be paid within thirty (30) days after the date of confirmation.
- Sheriff records the deed within fourteen (14) business days after the purchaser pays the balance due.

Case Concluded Unless:

If purchaser fails to pay the balance due within thirty (30) days the purchaser may be held in contempt. Any attorney of record in the case may cause a citation to issue commanding such defaulting purchaser to appear before the judge having charge of the

310/474

matter and show cause why the purchaser should not be punished. Upon a finding of guilty of contempt, the Court shall proceed in accordance with §2329.04 R.C..

*Thanks to Magistrate Michelle Pena of the Lorain County Court of Common Pleas  
for initial development of this checklist.*

310/475

KNOX COUNTY CLERK OF COURTS  
KNOX COUNTY, OHIO

COURT CERTIFICATE OF RELEASE  
TO:  RECORDER  CLERK OF COURTS

The following lien is released  with  without satisfaction by proceedings in the  
Common Pleas Court of Knox County, Ohio, in the case of \_\_\_\_\_ vs

Case Number \_\_\_\_\_

Journal Volume \_\_\_\_\_ Page Number \_\_\_\_\_ Dated \_\_\_\_\_

TYPE OF RELEASE:

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Mortgage Release                           | <input type="checkbox"/> Assignment       | <input type="checkbox"/> Lease                   |
| <input type="checkbox"/> Mechanic Lien                              | <input type="checkbox"/> Employment/ODJFS | <input type="checkbox"/> Other (specified below) |
| <input type="checkbox"/> Vending Lien                               | <input type="checkbox"/> Federal Tax Lien |  |
| <input type="checkbox"/> Common Pleas Court Certificate of Judgment |   |  |

LIEN FILED BY:

\_\_\_\_\_  
(Name) (Date) (Volume) (Page)

LIEN ASSIGNED TO: (If applicable)

\_\_\_\_\_  
(Name) (Date) (Volume) (Page)

LIEN AGAINST: \_\_\_\_\_  
(Name)

FULL  PARTIAL RELEASE OF PROPERTY (If full release, no description needed)

DESCRIPTION OF PROPERTY: (Attach complete description if partial release)

OTHER COMMENTS: \_\_\_\_\_

Fee Approved For Recording by \_\_\_\_\_  
(Recorder's Office) (Date) (Fee)

Issued to:  RECORDER  CLERK OF COURTS \_\_\_\_\_  
(Date)

Certificate of Judgment Released \_\_\_\_\_  
(Date)

MARY JO HAWKINS, CLERK OF COURTS

By: \_\_\_\_\_  
(Deputy)

(Each release must be a separate form and must be approved by Recorder prior to attaching to Journal Entry of order and distribution for releases pertaining to Recorder's office - no prior approval is needed for Clerk's release - 1 additional copy of completed form is required at time of Journal Entry filing)

310/476

COMMISSIONERS:

Teresa A. Bemiller

Thom Collier

Roger Reed

KNOX COUNTY BOARD OF COMMISSIONERS

117 East High Street, Suite #161

Mount Vernon, Ohio 43050

Telephone: 740-393-6703 Fax: 740-393-6705

Jason Booth ADMINISTRATOR

CLERK/ADMINISTRATOR Office Manager Email: commissioners@co.knox.oh.us

Rochelle Shackle

www.co.knox.oh.us

rochelleshackle@co.knox.oh.us

January 19, 2017



RESOLUTION – APPROVING A SCHEDULE OF HOURLY RATES AND MAXIMUM  
ASSIGNED COUNSEL FEES AND EXPENSES TO BE PAID FOR LEGAL  
REPRESENTATION OF INDIGENT DEFENDANTS AMENDING RESOLUTION 101-2016  
– 62-2017

Mrs. Bemiller moved the adoption of the following resolution:

WHEREAS, Knox County recognizes its responsibility under the laws of the State of Ohio and the United States of America to provide legal counsel for indigent individuals charged with loss of liberty offenses and other statutorily granted right of counsel proceedings in the Courts of K. Knox County; and

WHEREAS, Knox County has a County Public Defender's Office to provide representation in indigent defense cases, however, in instances where there is an ethical conflict, multiple defendants, or for other reasons where representation cannot or is not provided by the County Public Defender's Office, or where a county utilizes an assigned counsel program for indigent defense, the Commissioners wish to adopt a schedule of fees and expenses or those types of services; and

WHEREAS, Pursuant to Section 120.33(A)(3) of the Ohio Revised Code, to receive reimbursement, a board of county commissioners must adopt a resolution to pay counsel appointed by the court, and must establish an up to date fee and expense schedule which must be filed with the Office of the Ohio Public Defender, upon which reimbursement will be based; and

BE IT RESOLVED, BY THE BOARD OF COMMISSIONERS OF KNOX COUNTY, OHIO, the following State Fee and Expense Schedule is adopted for use by the Courts of Knox County including the 5<sup>th</sup> District Court of Appeals and Supreme Court as Attachment A.

BE IT FURTHER RESOLVED, the effective date of the new Fee and Expense Schedule for Assigned Counsel is February 1, 2016. Cases submitted to the court for payment after February 1, 2016 will be eligible for the fees established above even though the appointment may have been prior.

BE IT FURTHER RESOLVED, this Resolution amends Resolution 101-2016, adopted January 28, 2016.

310/477

Mr. Reed seconded the adoption of the foregoing resolution and upon roll call, the vote resulted as follows:

Mr. Collier, Aye  
Mrs. Bemiller, Aye  
Mr. Reed, Aye

CERTIFICATION

The above resolution was adopted at a regular session of the Board of Knox County Commissioners held on Thursday, January 19, 2017, and entered into Commissioners' Journal No. 85.

  
\_\_\_\_\_  
Rochelle R. Shackle, Clerk/Office Manager  
Board of Knox County Commissioners

310/478

## ATTACHMENT A

### STATE MAXIMUM FEE & EXPENSE SCHEDULE FOR APPOINTED COUNSEL REIMBURSEMENT

#### A. General Provisions

1. The *Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement* contains the hourly rates and maximum amounts that the Ohio Public Defender will reimburse counties for representation of indigents in criminal cases.
2. Pursuant to Section 120.33(A)(3) of the Ohio Revised Code, to receive reimbursement, a board of county commissioners must adopt a resolution to pay counsel appointed by the court, and must establish a fee schedule. The county is responsible for filing an up to date fee schedule with the Office of the Ohio Public Defender. Reimbursement will be based on the latest fee schedule filed with the Ohio Public Defender.
3. Reimbursement to the counties shall be based on the most serious offense with which the defendant is charged and will be made at up to 50 percent of either the state or county rate, whichever is lower. Reimbursement shall not exceed the established hourly or maximum rates unless otherwise provided for by statute.

#### B. Trial Level Proceedings

1. Reimbursement for representation in trial level cases not involving a death penalty specification will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services. Reimbursement for representation in trial level cases involving a death penalty specification will be made based on the maximum rate of \$95.00 per hour for both in-court and out-of-court services.
2. The prescribed maximum fees permitted in trial level proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated Murder (w/specs) per O.R.C. 2929.04(A) and 2941.14(B)	* \$75,000

\* Ohio Supreme Court Rule 20 of the Rules of Superintendence for the Courts of Ohio requires the appointment of two (2) attorneys in capital offense cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

Aggravated Murder (w/o specs)	\$ 8,000 /1 attorney \$ 10,000 /2 attorneys
Murder	\$ 5,000

310/479

<u>Offense/Proceeding (continued)</u>	<u>Fee Maximum</u>
Felony with Possible Life Sentence/Repeat Violent Offender/Major Drug Offender.	\$ 5,000
Felonies (degrees 1-3)	\$ 3,000
Felonies (degrees 4 & 5)	\$ 2,500
Misdemeanors (degrees 1-4)	\$ 1,000
Contempt of Court	\$ 300
Parole, Probation, and all other proceedings not elsewhere classified	\$ 500

3. Reimbursement for guilty or no contest pleas will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services up to the prescribed maximums for each classification, or if selected by the board of commissioners, at a flat rate for non-homicide felonies, misdemeanors, and juvenile proceedings.

C. Juvenile Proceedings

1. Reimbursement for representation in juvenile proceedings will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services.
2. Beginning with appointment dates of January 1, 2000 and later, reimbursement will no longer be made for social workers (non-attorneys) appointed as guardian *ad litem*.
3. In abuse, dependency, and neglect cases, both the attorney and the guardian *ad litem* are entitled to bill the maximum fee allowed by the county for the initial dispositional hearing and each subsequent review hearing before the court.
4. The prescribed maximum fee permitted in juvenile proceedings, including guardian *ad litem* is \$1,000.

D. Appellate Level Proceedings

1. Reimbursement for representation in appellate level proceedings not involving a death sentence shall be made based on the maximum rate of \$50.00 per hour for out-of-court and \$60.00 per hour for in-court services.
2. Reimbursement for representation of appellate level proceedings involving a death sentence will be made based on the maximum rate of \$95.00 per hour for both out-of-court and in-court services.
3. The prescribed maximum fees permitted in appellate level proceedings are listed below. The rates apply to each level of appeal.

310/480

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated Murder (death sentence imposed)	\$25,000*
Aggravated Murder (sentence other than death)	\$ 5,000
Murder with Life Sentence/Repeat Violent Offender/Major Drug Offender/Sexually Violent Predator	\$ 3,000
Felonies/S.B. 2 & H.B. 1 Appeals	\$ 1,500
Misdemeanors	\$ 1,000
Other/Juvenile	\$ 1,000

\* Ohio Supreme Court Rule 21 of the Rules of Superintendence for the Courts of Ohio requires the appointment of two (2) attorneys in capital cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

E. Postconviction and Habeas Corpus Proceedings

1. Reimbursement for postconviction and state habeas corpus proceedings not involving a death sentence will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services.
2. The prescribed maximum fees permitted in postconviction and habeas corpus proceedings not involving a death sentence are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Postconviction Proceeding with Evidentiary Hearing	\$1,500
Postconviction Proceeding without Evidentiary Hearing	\$ 750
Habeas Corpus with Evidentiary Hearing	\$1,500
Habeas Corpus without Evidentiary Hearing	\$ 750

3. Reimbursement for postconviction and state habeas corpus proceedings involving a death sentence shall be made based on the maximum rate of \$95.00 per hour for both out-of-court and in-court services to a maximum of \$25,000 to be divided among services in the trial court, the Court of Appeals, and the Ohio Supreme Court.

310/481

F. Flat Rate Fee Resolutions and Guaranteed Minimum Fees

1. A county board of commissioners may choose to adopt a fee schedule which compensates attorneys at a flat rate instead of at an hourly rate for certain types of offenses. Flat rate fee schedules are subject to the following:
  - a. Schedules incorporating flat rate fees must be approved by the Ohio Public Defender.
  - b. Requests for reimbursement must include a completed Itemized Fee Statement section on form OPD-1026R regardless of the use of flat rates. Incomplete forms will be returned to the county for completion.
  - c. The box indicating that a flat rate fee has been used must be clearly checked on the front of the form.
2. Beginning with appointment dates of January 1, 2000 or later, reimbursement based on guaranteed minimum fees schedules is no longer permitted. Counties who continue to use guaranteed minimum rates may still receive reimbursement, however, reimbursement will be based on the amount calculated from multiplying the hours worked by the applicable hourly rate(s), plus approved expenses. Fees paid to attorneys beyond those supported by actual hours worked are not reimbursable.

G. Extraordinary Fees

Cases eligible for extraordinary fees are ones which, because of extraordinarily complex issues, multiple offenses, lengthy trials, or other reasons, warrant compensation at a rate which exceeds the maximums established by a county or the Ohio Public Defender. Reimbursement to the county for extraordinary fees is subject to the following requirements:

1. Counties must provide for extraordinary fees in their fee resolution adopted pursuant to R.C. 120.33(A)(3).
2. Extraordinary fees must be clearly documented in the appropriate sections on the Motion, Entry, and Certification form.
3. The Judge hearing the case must indicate approval of the extraordinary fees by checking the "Extraordinary Fees Granted" box in the Judgment Entry section on the front of the form, and a copy of the journal entry must be attached.

H. Amendments to the Fee Schedule

The Ohio Public Defender may amend this fee schedule at any time. Whenever the schedule is amended or revised, the Ohio Public Defender will give notice to the appropriate county offices including, but not limited to: county commissioners, auditors, judges, and clerks of courts.

310/482

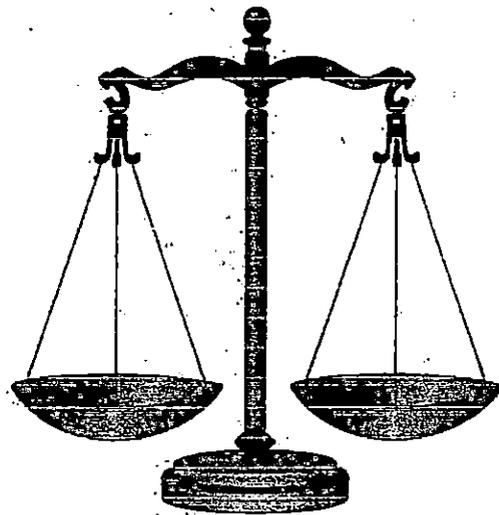
I. REIMBURSEMENT OF EXPENSES

The Office of the Ohio Public Defender shall reimburse up to 50 percent of certain expenses reasonably related and necessary to the defense of an indigent client. These expenses include travel, transcripts, expert services, and certain other miscellaneous expenses. All reimbursement for expenses are subject to the general rules of the Standards and Guidelines.

310/483

KNOX COUNTY, OHIO  
COURT OF COMMON PLEAS  
ADULT COURT SERVICES

PRETRIAL RELEASE PROGRAM



HONORABLE RICHARD D. WETZEL

February 8, 2017

310/484

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM

Table of Contents:

Goals..... 2

Objectives..... 2

Eligibility..... 2

Pretrial release process..... 2

Pretrial release investigation..... 3

Arrest Process..... 6

Pretrial release program placement..... 6

Pretrial release program supervision..... 7

Pretrial release violations & bond revocation hearings..... 9

310/485

## KNOX COUNTY ADULT COURT SERVICES PRETRIAL RELEASE PROGRAM

### GOALS

The goals of the Knox County Adult Court Services pretrial release program are to reduce the county jail population by timely identifying defendants who are appropriate for pretrial release and to provide sufficient supervision of these defendants to assure the public safety and their appearance at all court hearings.

### OBJECTIVES

The objectives of pretrial release are:

1. To protect the citizens and community of Knox County by ensuring that the jail space remains available for defendants who are convicted and sentenced.
2. To coordinate the felony arraignment process.
3. To provide relevant, objective, and verified information to the court for bond determinations.
4. To impose necessary conditions and provide effective supervision to eligible defendants to assure court appearances and to prevent further involvement in criminal activities.
5. To provide information to the court and probation officers for sentencing.
6. To prevent defendants from being incarcerated prior to conviction for a longer period than would be imposed following conviction.

### ELIGIBILITY

Defendants must meet the following qualifications to be eligible for pretrial release:

1. The crime charged must be a bailable offense;
2. Outstanding warrants, holders, or detainers must not prevent the defendant's release; and
3. Bond conditions can be imposed that are sufficient to reasonably ensure the defendant's appearance at future court hearings.

### PRETRIAL RELEASE PROCESS

1. Complaint filed against accused or accused arrested on felony charge.
2. Pretrial release investigation initiated by pretrial release officer
3. Pretrial release officer performs a records check.
4. Pretrial release officer conducts bond interview, if no outstanding warrants, holders, or detainers.
5. Pretrial release officer completes ORAS-PAT
6. Pretrial release officer considers whether the defendant would likely be granted community control sanctions if convicted.

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM

7. Bond recommendation report written, including recommendations on bail, bond, placement into pretrial release and conditions of release.
8. Accused is arraigned and bail established.
9. Defendant makes bail and is released from custody.
10. Defendant is placed in pretrial release.

**PRETRIAL RELEASE INVESTIGATION**

Upon receiving a copy of a felony complaint or being notified that the accused has been arrested on a felony charge, the pretrial release officer shall initiate a pretrial release investigation. The pretrial release officer shall evaluate all felony pretrial defendants in Knox County's custody at the Knox County Jail to determine whether pretrial release is appropriate.

**Records Check**

The pretrial release officer shall begin the investigation by conducting a records check to determine if the accuse has any warrants, holders, and/or detainers.

The records check shall be completed using or contacting the following:

1. Knox County Common Pleas Courtview
2. Mount Vernon Municipal Court
3. Ohio Department of Rehabilitation and Corrections records (ODRC) which are accessed through the law enforcement log-in;
4. Ohio Law Enforcement Gateway (OH-LEG); and
5. Local court websites, which are used to determine if the defendant has any additional charges or open criminal cases in jurisdictions outside of Knox County. Local court websites are identified during the records checks of the systems listed above and based on the current and previous addresses of the accused.

If warrants, holders, or detainers are found to prevent the defendant's release, the accused is not eligible for pretrial release. The pretrial release officer shall inform the court of the ineligibility for pretrial release of the accused in the Bond Recommendation Report and notify the agency that issued the warrant, holder, or detainer that their defendant is in the custody of Knox County. If no warrants, holders, and/or detainers are found, then a bond interview is conducted to determine eligibility for pretrial release.

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM

**Bond Interview**

The bond interview process starts upon completion of the records check and once it is determined that the accused has no warrants, holders or detainers. If the accused is not in custody, the interview shall take place at the Knox County Adult Court Services Office.

Prior to the bond interview, the accused is advised of their Constitutional Rights, including the right to an attorney, the right to remain silent, and the right against self-incrimination. Based on these rights, the accused is not required to participate in the bond interview; their participation in the interview process is completely voluntary, and they may stop the interview at any time. If the accused chooses to participate in the bond interview, they may have their attorney present during all or part of the interview. If the accused proceeds with the bond interview, they shall be asked to sign a form acknowledging that they have been informed of their rights and that they have chosen to waive them for purposes of the bond interview.

**DURING THE BOND INTERVIEW PROCESS, THE ACCUSED SHALL NOT BE QUESTIONED ABOUT THE CURRENT OFFENSE.**

If the accused wishes to participate in the bond interview, the pretrial release officer shall use the Intake Investigation Form to gather the following information:

1. Ties to the community, such as length of residence, family connections and employment status;
2. Past criminal history;
3. Current status of the accused regarding probation, community control sanctions, parole, post-release control, bail, or under a court protection order;
4. Drug and alcohol use, with an effort to identify specific treatment needs and previous treatment episodes; and
5. Mental and physical health issues and needs.
6. Eligibility for community control sanctions based upon pending charges, if convicted.

After the bond interview is concluded, the pretrial release officer shall attempt to verify as much of the information provided by the accused as possible, including employment status and where the accused will be living if released. The pretrial release officer shall then conduct a risk assessment screen using the ORAS-PAT

**ORAS Screening**

The pretrial release officer shall complete a risk assessment screen on all defendants eligible for pretrial release using the ORAS-PAT. The ORAS-PAT measures the probability of the accused to appear in court and to commit additional criminal offenses. The pretrial release officer shall use the ORAS-PAT score as a determining factor in making bond recommendations to the court.

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM

Bond Recommendation Report

After administering the ORAS-PAT, the pretrial release officer shall draft a bond recommendation report. In addition to encompassing information acquired during the pretrial release investigation, the pretrial release officer's recommendations on bail, placement in pretrial release and conditions of release shall be included in the bond recommendation report.

Bail is security for the appearance of the accused in court RC §2937.22. Bail recommendations may include the following:

1. Personal or own recognizance of the accused (OR bond) or unsecure bail bond;
2. A bail bond secured by ten percent (10%) of the bond amount in cash; or
3. A cash bond, corporate bond, surety bond, or bond secured by real estate or securities. CrimR 46(A).

In all cases, bail shall be established with consideration of the seriousness of the offense charged, the previous criminal record of the accused, and the probability of the accused appearing at trial. RC §2937.23(A)(3).

If placement in the pretrial release is recommended, the pretrial officer shall provide the court with specific conditions of release. Release conditions may include some of the following, if necessary to ensure the defendant's appearance at future hearings:

1. Placing the defendant under reporting supervision;
2. Requiring the defendant to regularly call the pretrial release officer, in lieu of reporting in person;
3. Placing restrictions on travel, association, or residence during period of release;
4. Placing the defendant under house arrest, electronic monitoring, or work release program;
5. Regulating or prohibiting the defendant's contact with the victim (No Contact Order)';
6. Regulating the defendant's contact with witnesses or others associated with the case;
7. Requiring the defendant to get an alcohol and drug assessment and attend treatment;
8. Requiring any other conditions considered reasonably necessary to ensure appearance or for public safety, such as mental health assessment and treatment, random drug testing, etc. CrimR 46(B).

The pretrial release officer shall propose release conditions that are the least restrictive necessary to reasonably ensure the defendant's appearance in court, safeguard the integrity of the judicial process, and protect the safety of the community or any person.

**KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM**

**ARRAIGNMENT PROCESS**

Once the case is bound over from the Mount Vernon Municipal Court, presented to the grand jury, and an indictment is returned, the pretrial release officer coordinates the arraignment process. As part of this procedure, the pretrial release officer works with staff at the court, prosecutor's office, Knox County Adult Court Services, clerk of court's office, and jail to prepare the necessary arraignment paperwork, including the bond recommendation report and arraignment entries.

On the day of arraignments, the pretrial release officer does the following:

1. Provides the Judge with the bond recommendation report and arraignment entries
2. May be required to conduct a pretrial release investigation.
3. May be required to complete the arraignment entry during court while the defendant is being arraigned.
4. Makes copies of all arraignment forms, files the forms with the clerk of courts, and distributes copies to the Judge, prosecutor, defense counsel, and defendant.
5. Meets with the defendant in order to review and discuss the seven standard conditions of bond.

In some cases the Judge may exercise their discretion and directly refer a defendant to the pretrial release officer for either a pretrial release investigation or placement in the pretrial release program. If the Judge requests a pretrial release investigation, the normal procedure as outlined above is followed.

**PRETRIAL RELEASE PROGRAM PLACEMENT**

Once the judge orders the defendant placed in the pretrial release program, the pretrial officer initiates program placement. To place a defendant into the pretrial release program, the pretrial officer shall do the following:

1. Defendant will sign the release of information and waiver of rights
2. Complete the intake sheet
3. Generate pretrial release conditions
4. Input the defendant's ORAS-PAT information into the ORAS website; and
5. Create a pretrial release case for the defendant

Once the defendant posts bail or if an OR bond with conditions for pretrial release is granted, the pretrial release officer meets with the defendant to sign the bond and review conditions. If the defendant is in jail under a common pleas court case, the pretrial release officer shall instruct the clerk of courts to fax the bond to the Knox County Jail. The defendant will sign the bond at the Knox County Jail. After the defendant signs the bond, the pretrial release officer will meet the defendant at the Adult Court Services Office. The defendant and the pretrial officer will then do the following:

**KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM**

1. Complete the intake sheet which includes information, such as address, phone number, case number, date placed in the pretrial release and two contact references, (name and phone number) of someone who will always know how to get in contact with the defendant.
2. Generating pretrial release terms and conditions and reading them aloud to the defendant to ensure that the defendant understands the requirements and expectations. At this time, the defendant is provided an opportunity to ask questions about any of the terms and conditions.
3. Printing a copy of the pretrial release terms and conditions.
4. Obtaining the defendant's signature on the pretrial release terms and conditions and providing the defendant with a signed copy.
5. Placing the signed copy of the pretrial release terms and conditions on the Judge's desk for a signature.
6. Once the judge signs the pretrial release terms and conditions, filing them with the clerk of courts and providing the defendant with a signed and filed copy.
7. Inputting the defendant's ORAS-PAT information into the ORAS website.

The pretrial release officer then monitors the defendant's compliance with the pretrial release terms and conditions as the case proceeds through the pretrial process.

**PRETRIAL RELEASE SUPERVISION**

The pretrial release officer establishes a supervision plan as part of the pretrial release terms and conditions. A defendant is supervised under the conditions of the pretrial release program during the pendency of the case and until the case is terminated either by (1) dismissal or (2) the defendant is sentenced to community control sanctions and assigned a new officer for supervision, (3) the defendant is sentenced to prison, (4) the defendant's bail is revoked due to violations of the terms and conditions. The pretrial release officer shall monitor the defendant's compliance with the pretrial release terms and conditions and shall inform the court of any violations prior to the defendant's next scheduled court date.

Defendants under pretrial release supervision will be required to report to the pretrial release officer at varying frequencies based on their ORAS-PAT score. The following are the reporting requirements based on the defendants ORAS-PAT risk levels:

1. Low Risk- defendants that score as low risk are usually not required to report or placed in pretrial release unless specifically ordered by the judge.
2. Moderate Risk- defendants that score as low moderate to high moderate may report once a week and/or be placed on "call status" depending on where they score on the continuum. Defendants on "call status" are required to phone the pretrial release officer as directed.
3. High Risk- defendants that score as high risk at a minimum report at least once a week and may report more frequently if ordered to do so by the judge. In Exceptional

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM

cases the judge may place a defendant on daily reporting for pretrial release supervision.

When determining reporting requirements, the pretrial release officer shall consider how far the defendant lives from the Courthouse, what transportation is available to the defendant, and whether there are means other than in person reporting that may be sufficient to ensure the defendant's appearance at future hearings.

For defendants that are not required to report to the pretrial release officer as a conditions of pretrial release, the standard pretrial release terms and conditions apply and are monitored for compliance by the pretrial release officer.

#### Hearing Notification

The pretrial release officer shall keep track of all future court hearings for all defendants on pretrial release. During every contact with the defendant, the pretrial release officer shall remind the defendant of the date, time and place of all future court hearings.

#### Sexually Transmitted Disease Testing

The pretrial release officer is the court designee responsible for ensuring that any required sexually transmitted disease (STD) testing of the defendant is completed as directed by the Ohio Revised Code. Under RC §2907.27 the defendant may be ordered by the court so submit to one or more appropriate tests to determine if they are suffering from a venereal disease, if the defendant is charged with one of the following crimes or with a violation of a municipal ordinance that is substantially equivalent:

1. RC§2907.02 Rape,
2. RC §2907.03 Sexual Battery,
3. RC §2907.04 Unlawful Sexual Conduct with a Minor,
4. RC §2907.24 Soliciting after Positive HIV Test,
5. RC §2907.241 Loitering to engage in Solicitation; Solicitation after Positive HIV Test, or
6. RC §2907.25 Prostitution; after Positive HIV Test.

If the defendant is free on bond and refuses to submit to any tests ordered by the court under RC §2907.27, the court may revoke the defendant's bond and incarcerate the defendant until the tests are performed. RC §2907.27 (B)(2). If the defendant is incarcerated and refuses to submit to tests ordered by the court under RC §2907.27, the court shall order the person in charge of the jail or prison in which the defendant is incarcerated to take any action necessary to facilitate the performance of testing, including the forcible restraint of the defendant for the purpose of drawing blood to be used in the test. RC §2907.27 (B)(2).

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM

**PRETRIAL RELEASE VIOLATIONS AND BOND REVOCATION HEARINGS**

When a defendant violates their pretrial release terms and conditions, such as failing to report as required, the pretrial release officer shall immediately contact the defendant to investigate the reason for the violation. The pretrial release officer shall inform the Chief Probation Officer of serious violations and review the case with the CPO to determine what action should be taken. The pretrial release officer may request a bond review hearing, depending on the nature of the violation.

There are two types of bond review hearings:

1. In-Custody Hearings- may occur when the defendant has been arrested and incarcerated on new criminal charges. For these hearings the pretrial release officer shall prepare an Order to Hold Bond Violation and Set Bond Hearing. In custody hearings are usually held within a few days of the defendant's arrest and are set by the Court.
2. Out-of-Custody hearings- occur when the defendant has not been arrested but has violated a pretrial release term or conditions. In this situation the defendant may have received new charges, generally misdemeanors; or violated a No Contact Order but is not arrested. For these hearings the pretrial release officer shall prepare the Bond Violation-Order to Set Hearing. Out of custody hearings are scheduled by the Court and usually coincide with another hearing already scheduled in the case, such as pretrial hearings.

Regardless of the type of bond hearing held-in custody or out of custody, the pretrial release officer shall:

1. Prepare a Bond Violation Notice and submit it to the Chief Probation Officer for review and approval .
2. Prepare a Bond Violation Report and submit it to the Chief Probation Officer for review and approval .
3. Send the Bond Violation Notice to the Judge of record for their signature and to schedule a date and time for the hearing.
4. Once the Judge's office returns the executed Bond Violation Notice, which includes the date and time of the hearing, make copies of the Bond Violation Notice and Bond Violation Report and distribute them to the parties.

390/493

PRETRIAL RELEASE  
POLICY, PURPOSE, PROCEDURE  
TABLE OF CONTENTS

Descriptive.....2  
Pretrial Release Investigations.....3  
Bond Interview.....4  
ORAS Screening.....4, 4A  
Bond Recommendation Report.....5  
Pretrial Supervision.....6  
Sexually Transmitted Disease Testing.....6 -7

310/494

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

**PRETRIAL RELEASE PROGRAM**

Policy: Pretrial Release Program

Purpose- to ensure the safety of the community, protect the rights of criminal pretrial defendants and to secure the defendant's appearance at criminal proceedings.

Procedure

Knox County Adult Court Services Pretrial Release Program was created to protect the citizens of Knox County. The Pretrial Officer guides defendants from the felony arraignment process through conviction. In addition to reducing unnecessary pretrial incarceration by timely identifying defendants who are eligible for release, Pretrial Release supplies relevant, objective, and verified information to the court for bond determinations; imposes necessary conditions and effective supervision to eligible defendants to assure court appearances and deter further criminal activity; and provides information to the court and probation officers for sentencing.

The Pretrial Officer coordinates the arraignment process and conducts interviews, bond investigations, ORAS-PAT, and screenings for Pretrial Release eligibility. The officer shall also make bond recommendations and monitor those defendants who are released for compliance with Pretrial Release Program Policies.

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

**PRETRIAL RELEASE INVESTIGATIONS**

**Policy: PRETRIAL RELEASE INVESTIGATIONS**

Purpose- to provide guidelines to Knox County Adult Court Services staff on conducting pretrial release investigations.

**Procedure**

Upon receiving a copy of a felony complaint or being notified that the accused has been arrested on a felony charge, the Pretrial Officer shall initiate a pretrial release investigation. As directed by the Knox County Common Pleas Court Judge, the pretrial officer shall evaluate felony pretrial defendants in Knox county custody at the Knox County Jail to determine whether Pretrial release is appropriate.

**Records Check**

The pretrial release officer shall begin the investigation by conducting a records check to determine if the accused has any warrants, holders, and/or detainers. If warrants, holders, or detainers are found to prevent the defendant's release, the accused is not eligible for pretrial release.

The records check shall be completed using or contacting the following:

1. Knox County Common Pleas Courtview
2. Mount Vernon Municipal Court
3. Ohio Department of Rehabilitation and Corrections (ODRC) records, which are accessed through the law enforcement log-in.
4. Ohio Law Enforcement Gateway (OH-LEG)
5. Local court websites, which are used to determine if the defendant has any additional charges or open criminal cases. Local court websites are identified during the records checks of the systems listed above and based on the current and previous addresses of the accused.

If warrants, holders, or detainers are found, the accused is not eligible for pretrial release. The Pretrial officer shall inform the court of the ineligibility of the accused in the Bond Recommendation Report and notify the agency that issued the warrant, holder, or detainer that their defendant is in the custody of the Knox County Jail. If no warrants, holders, and/or detainers are found, then a bond interview is conducted to determine eligibility for pretrial release.

3/10/496

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

**BOND INTERVIEW**

The bond interview process starts upon completion of the records check and once it is determined that the accused has no warrants, holders or detainers. If the accused is not in custody, the interview shall take place at the Knox County Adult Court Services Office.

Prior to the bond interview, the accused is advised of their Constitutional Rights, including the right to an attorney, the right to remain silent, and the right against self-incrimination. Based on these rights, the accused is not required to participate in the bond interview; their participation in the interview process is completely voluntary, and they may stop the interview at any time. If the accused chooses to participate in the bond interview, they may have their attorney present during all or part of the interview. If the accused proceeds with the bond interview, they shall be asked to sign a form acknowledging that they have been informed of their rights and that they have chosen to waive them.

**DURING THE BOND INTERVIEW PROCESS, THE ACCUSED SHALL NOT BE QUESTIONED ABOUT THE CURRENT OFFENSE.**

If the accused wishes to participate in the bond interview, the Pretrial release officer shall use the Intake Investigation Form to gather the following information.

1. Ties to the community, such as length of residence, family connections, and employment status.
2. Past criminal history.
3. Current status of the accused regarding probation, community control sanctions, parole, post-release control, bail, or under a court protection order.
4. Drug and alcohol use, with an effort to identify specific treatment needs and previous treatment episodes.
5. Mental and physical health issues and needs.
6. Eligibility for Community Control

After the bond interview is concluded, the Pretrial release officer shall attempt to verify as much of the information provided by the accused as possible, including address where the accused will be living if released and employment status. The pretrial release officer shall then conduct a risk assessment screen using the ORAS-PAT.

**ORAS SCREENING**

The pretrial release officer shall complete a risk assessment screen on all defendants eligible for bond using the Ohio Risk Assessment System Pretrial Tool (ORAS-PAT). The ORAS-PAT measures the probability of the accused to appear in court and to commit additional criminal offenses. The pretrial release officer shall use the ORAS-PAT score as a determining factor in making bond recommendations to the court.

3/10/497

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

**Bond Recommendation Report**

After administering the ORAS-PAT, the pretrial release officer shall draft a Bond Recommendation Report. In addition to encompassing information acquired during the pretrial release investigation, the pretrial release officer's recommendations on bail, placement in the pretrial release program and conditions of release shall be included in the Bond Recommendation Report.

Bail is security for the appearance of the accused in court. RC §2937.22. Bail recommendations may include the following:

1. Personal or own recognizance of the accused (OR bond) or an unsecure bail bond.
  2. A bail bond secured by ten percent (10%) of the bond amount in cash.
  3. A cash bond, corporate bond, surety bond, or bond secured by real estate or securities.
- CrimR 46(A)

In all cases, bail shall be established with consideration of the seriousness of the offense charged, the previous criminal record of the accused, and the probability of the accused appearing at trial. RC §2937.23(A) (3).

If placement in the pretrial release program is recommended, the pretrial officer shall provide the court with specific conditions of release. Release conditions may include the following:

1. Placing the defendant under reporting supervision.
2. Placing restrictions on travel, association, or residence during period of release.
3. Placing the defendant under house arrest, electronic monitoring, or work release program.
4. Regulating or prohibiting the defendant's contact with the victim (No Contact Order).
5. Regulating the defendant's contact with witnesses or others associated with the case.
6. Requiring the defendant to get an alcohol and drug assessment and attend treatment.
7. Requiring any other conditions considered reasonably necessary to ensure appearance or for public safety, such as mental health assessment and treatment; random drug testing, etc. CrimR 46(B).

The pretrial release officer shall propose release conditions that are the least restrictive by necessary to reasonably ensure the defendant's appearance in court, safeguard the integrity of the judicial process, and protect the safety of the community or any person.

3/10/498  
5

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

**Policy: Pretrial Supervision**

**Purpose-** to establish procedures for the Knox County Adult Court Services staff regarding pretrial supervision.

**Procedure**

The pretrial release officer establishes a supervision plan as part of the pretrial release terms and conditions. A defendant is supervised under pretrial release terms and conditions until the case is dismissed, the defendant is sentenced to community control sanctions and assigned a new officer for supervision, the defendant is sentenced to prison, or the defendant's bail is revoked due to violations of the terms and conditions. The pretrial release officer shall monitor the defendant's compliance with the pretrial release terms and conditions and inform the court of any violations.

Defendants under pretrial release supervision will be required to report to the pretrial officer at varying frequencies based on their ORAS-PAT score. The following are the reporting requirements based on the defendants ORAS-PAT risk levels:

1. Low Risk- defendants that score as low risk are usually not required to report or placed in pretrial release unless specifically ordered by the judge.
2. Moderate Risk- defendants that score as low moderate to high moderate may report once a week and/or be placed on "call status" depending on where they score on the continuum. Defendants on "call status" are required to phone the pretrial release officer as directed.
3. High Risk- defendants that score as high risk at a minimum report at least once a week and may report more frequently if ordered to do so by the judge. In exceptional cases the judge may place a defendant on daily reporting for pretrial release supervision.

For defendant that are not required to report to the pretrial release officer as a condition of pretrial release, the standard pretrial release terms and conditions apply and are monitored for compliance by the pretrial release officer.

**Sexually Transmitted Disease Testing**

The pretrial release officer is the court designee responsible for ensuring that any required sexually transmitted disease (STD) testing of the defendant is completed as directed by the Ohio Revised Code. Under RC §2907.27 the defendant may be ordered by the court to submit to one or more appropriate tests to determine if they are suffering from a venereal disease, if the defendant is charged with one of the following crimes or with a violation of a municipal ordinance that is substantially equivalent:

310/499

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

1. RC §2907.02 Rape,
2. RC §2907.03 Sexual Battery,
3. RC §2907.04 Unlawful Sexual Conduct with a Minor,
4. RC §2907.24 Soliciting after Positive HIV Test,
5. RC §2907.241 Loitering to engage in Solicitation; Solicitation after Positive HIV Test, or
6. RC §2907.25 Prostitution; after Positive HIV Test.

If the defendant is free on bond and refuses to submit to any tests ordered by the court under RC §2907.27, the court may revoke the defendant's bond and incarcerate the defendant until the tests are performed. RC §2907.27 (B) (2). If the defendant is incarcerated and refuses to submit to tests ordered by the court under RC §2907.27, the court shall order the person in charge of the jail or prison in which the defendant is incarcerated to take any action necessary to facilitate the performance of testing, including the forcible restraint of the defendant for the purpose of drawing blood to be used in the tests. RC §2907.27 (B) (2).

PRETRIAL RELEASE  
FORMS  
TABLE OF CONTENTS

Bond Interview and Advisement of Rights.....1  
Pretrial Release Intake Sheet.....2,3,4  
Bond recommendation sheet.....5  
Factors (description) relevant to bond.....6  
ORAS PAT assessment tool used.....7  
Pretrial Release Program Order of Bond conditions.....8  
Bond Violation/Order to Hold/Set hearing.....9  
Bond Violation Report (officer use only).....10

310/501

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM INTAKE INVESTIGATION FORM

**BOND INTERVIEW AND ADVISEMENT OF RIGHTS**  
Knox County Adult Court Services

My name is \_\_\_\_\_ and I am with the Knox County Adult Court Services Office. My role for the Court is to interview defendants who are charged with a felony offense(s) and make recommendations to the Court regarding release, bond reductions, and/or whether someone should be supervised while out on bond in their felony case.

Prior to the start of this interview, there are certain rights that you have and need to be aware of;

1. You do not have to participate in a bond interview, it is completely voluntary.
2. You have the right to have an attorney present with you during the bond interview.
3. We will NOT discuss the facts of the case during the bond interview.
4. You may terminate this interview at any time without consequences.

Having been advised of these rights, do you wish to proceed with a bond interview at this time?

YES

NO

By signing below, I acknowledge that I have been advised of my rights and wish to proceed with a bond interview at this time without an attorney present.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pretrial Investigator

\_\_\_\_\_  
Date

3/10/502

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM INTAKE INVESTIGATION FORM

Knox County Adult Court Services  
Pretrial Release Intake Sheet

CASE NUMBER: \_\_\_\_\_ JUDGE: RICHARD D. WETZEL

OFFENSE: \_\_\_\_\_

NAME: \_\_\_\_\_ ALIAS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ COUNTY: \_\_\_\_\_

How long have you lived there: \_\_\_\_\_ With whom: \_\_\_\_\_

\_\_\_\_\_

Telephone number: \_\_\_\_\_ date of birth: \_\_\_\_\_

SSN: \_\_\_\_\_ Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_

Eyes: \_\_\_\_\_ Marital Status: \_\_\_\_\_ Employer: \_\_\_\_\_

Address of Employment: \_\_\_\_\_ City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Length of Employment: \_\_\_\_\_

Job Title: \_\_\_\_\_ Your Attorney: \_\_\_\_\_

Telephone: \_\_\_\_\_

List 2 References who will always know how to contact you:

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Date Placed on Day reporting: \_\_\_\_\_ Report Schedule: \_\_\_\_\_

3/10/503  
2

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM INTAKE INVESTIGATION FORM

Any Special conditions: \_\_\_\_\_

Case No: \_\_\_\_\_ Judge: RICHARD D. WETZEL

Name: \_\_\_\_\_ Maiden Name: \_\_\_\_\_

Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ SSN: \_\_\_\_\_

How long have you resided in Knox County, Ohio? \_\_\_\_\_

Present address: \_\_\_\_\_

How long have you lived there? \_\_\_\_\_ Who owns the residence? \_\_\_\_\_

Names of others you reside with \_\_\_\_\_

\_\_\_\_\_ telephone no: \_\_\_\_\_

Other Counties/States you have lived in: \_\_\_\_\_

\_\_\_\_\_

Employment History:

Are you currently employed? \_\_\_\_\_ Name of Employer: \_\_\_\_\_

Address of Employer: \_\_\_\_\_ Telephone: \_\_\_\_\_

Name of Supervisor: \_\_\_\_\_ Dates of Employment: \_\_\_\_\_

Type of employment: \_\_\_\_\_ Pay rate: \_\_\_\_\_ Per \_\_\_\_\_

Scheduled work hours: \_\_\_\_\_ Is your employer aware of your

present charges: \_\_\_\_\_ If unemployed, how long have you been unemployed: \_\_\_\_\_

\_\_\_\_\_ List additional sources of income (monthly):

General Assistance: \_\_\_\_\_ Unemployment: \_\_\_\_\_ ADC: \_\_\_\_\_ SSI: \_\_\_\_\_

SSDI: \_\_\_\_\_ Food Stamps: \_\_\_\_\_

3/0/504  
3

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM INTAKE INVESTIGATION FORM

Military Service: \_\_\_\_\_ Branch: \_\_\_\_\_

Type of Discharge: \_\_\_\_\_

EDUCATIONAL HISTORY: Highest grade completed: \_\_\_\_\_ Name and location of High

School \_\_\_\_\_ Do you have a GED: \_\_\_\_\_

Name of College or Technical School: \_\_\_\_\_

Area of study: \_\_\_\_\_ Did you graduate: \_\_\_\_\_

MEDICAL HISTORY:

Are you currently under a doctor's care for any reason:

Physical: \_\_\_\_\_ Mental: \_\_\_\_\_

Name of Doctor: \_\_\_\_\_ Are you currently prescribed any  
medications: \_\_\_\_\_ If so what: \_\_\_\_\_

Have you used any illegal drugs in the last six months: \_\_\_\_\_

How would you rate drug use problems in your life: (0-none) 1-5-numerous problems \_\_\_\_\_

What are the charges pending against you? \_\_\_\_\_

Are there any other charges pending in any other Court? \_\_\_\_\_

Do you have any detainers/holds against you? \_\_\_\_\_ Where: \_\_\_\_\_

Attorney's name: \_\_\_\_\_ If you do not have legal representation, do you  
need an attorney appointed for you: \_\_\_\_\_

Are you currently on probation/parole/community control? \_\_\_\_\_

What charge: \_\_\_\_\_ Name of Probation Officer: \_\_\_\_\_

Jurisdiction: \_\_\_\_\_

3/10/505  
4

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM INTAKE INVESTIGATION FORM

Investigating Officer \_\_\_\_\_ Date of Investigation \_\_\_\_\_

TO: Judge Richard D. Wetzel

Defendant: \_\_\_\_\_

CASE NO: \_\_\_\_\_

Charge: \_\_\_\_\_

Current Bond Amount: \_\_\_\_\_

Date of Grand Jury Indictment: \_\_\_\_\_

Defense Counsel: \_\_\_\_\_

Additional Information: \_\_\_\_\_

RECOMMENDATION TO THE COURT: \_\_\_\_\_ No Recommendation

\_\_\_\_\_ Own Recognizance

\_\_\_\_\_ Cash or Surety

\_\_\_\_\_ Application of 10%

CONDITIONS RECOMMENDED TO THE COURT:

\_\_\_\_\_ Pretrial Release (8-High Risk of FTA/Re-offend)

\_\_\_\_\_ STD Testing (Sex Offender cases)

\_\_\_\_\_ EHM (Electronic Home Monitoring) \_\_\_\_\_ EHM with house arrest

\_\_\_\_\_ Drug and Alcohol Assessment at the direction of the Probation Department

\_\_\_\_\_ Drug and Alcohol Treatment at the direction of the Probation Department

\_\_\_\_\_ No contact with Co-Defendant(s)

\_\_\_\_\_ No contact with alleged Victim(s)

\_\_\_\_\_ Additional Condition(s): Random Drug/Alcohol Testing

No Alcohol consumption

Report all medications

\_\_\_\_\_  
Pretrial Investigator

\_\_\_\_\_  
Date

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE PROGRAM INTAKE INVESTIGATION FORM

**FACTORS RELEVANT TO BOND**

Residence:

Employment:

Education:

Prior Record:

Additional information:

310/507

KNOX COUNTY ADULT COURT SERVICES  
PRETRIAL RELEASE

The following items are scored for the Pretrial Assessment Tool:

1. Age at First Arrest:  
0=33 or older  
1= under 33
2. Number of Failure-to-appear Warrants Past 24 Months:  
0=None  
1=One Warrant for FTA  
2=Two or more FTA Warrants
3. Three or More Prior Jail Incarcerations:  
0=No  
1=Yes
4. Employed at the time of arrest:  
0=yes, full time  
1=yes, part time  
2=unemployed
5. Residential Stability:  
0=Lived at current residence past six months  
1=Not lived at same residence
6. Illegal drug use during past six months  
0=no  
1=yes
7. Severe Drug Use problem:  
0=No  
1=Yes

Questions:

1. Do you have any prior arrests or convictions:            Y    N
2. How old were you when you were arrested for the first time? \_\_\_\_\_
3. What was the arrest for? \_\_\_\_\_
4. As an ADULT, have you ever gotten a warrant filed for failure to appear to Court?    Y    N
5. How many times? \_\_\_\_\_
6. How many times during the past two years? \_\_\_\_\_

310/508

INT THE COURT OF COMMON PLEAS OF KNOX COUNTY, OHIO  
GENERAL DIVISION

STATE OF OHIO :  
Plaintiff, Case No: :  
VS. : Judge Richard D. Wetzel  
DEFENDANT'S NAME : PRETRIAL RELEASE PROGRAM  
Defendant : ORDER OF BOND CONDITIONS  
(DOB MM-DD-YEAR ss# XXX-XX-DIGIT :

The Court, as a condition of bond, orders you to comply with the following conditions of the Pretrial Release Program:

1. I will obey all laws.
2. I will report all contact with law enforcement no later than the next business day to My Pretrial Release Officer. All arrests shall be reported immediately.
3. I will reside at \_\_\_\_\_ and will not move without prior approval of the Probation Department.
4. I will report all changes in phone number or contact information no later than the next business day to my Pretrial Release Officer.
5. I will report to the Probation Department as instructed.
6. I will not leave the State of Ohio without permission of the Court.
7. Additional conditions as follows:

- A.
- B.

I acknowledge and understand that if I violate any condition of Pretrial Release or bond that I may be subject to arrest. The Court will be notified of any violation of program rules.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Pretrial Release Officer

**IT IS SO ORDERED:**

\_\_\_\_\_  
JUDGE

CC: Prosecuting Attorney  
Defense Counsel  
Defendant

IN THE COURT OF COMMON PLEAS OF KNOX COUNTY, OHIO

GENERAL DIVISION

STATE OF OHIO :  
Plaintiff :  
Vs. :  
Defendant :  
(DOB: SSN#xxx-xx-digits) :

CASE NO:  
JUDGE: RICHARD D. WETZEL  
BOND VIOLATION  
ORDER TO HOLD AND  
SET HEARING

Now comes \_\_\_\_\_, Pretrial Release Officer for this Court, and states that he/she has personal knowledge and belief that the Defendant, \_\_\_\_\_, has violated his terms of bond in the following particulars:

Pretrial Condition of Bond # \_\_\_\_\_ which states \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Pretrial Release Officer

\_\_\_\_\_  
Lisa D. Lyons, Chief Probation Officer

A BOND HEARING IN THIS MATTER IS TO BE HELD ON: \_\_\_\_\_

At \_\_\_\_\_

\_\_\_\_\_  
JUDGE

9 310/510

BOND VIOLATION REPORT

DATE:

DEFENDANT'S NAME:

CASE NO:

OFFENSE:

JUDGE: RICHARD D. WETZEL

BOND CONDITION VIOLATED:

HISTORY:

PRETRIAL RELEASE OFFICER'S RECOMMENDATION:

Respectfully Submitted:

Reviewed and Approved:

\_\_\_\_\_  
Pretrial Release Officer      Date

\_\_\_\_\_  
Lisa D. Lyons      Date  
Chief Probation Officer

310/511

**KNOX COUNTY PROSECUTING ATTORNEY'S**

**PRETRIAL DIVERSION PROGRAM**

**ELIGIBILITY STANDARDS, RULES AND FORMS**

FILED  
KNOX COUNTY  
COURT OF COMMON PLEAS

2017 JUL 12 PM 3:30

MARY JO HAWKINS  
CLERK OF COURTS

REVISED MAY, 2017

CHIP McCONVILLE, PROSECUTING ATTORNEY

310/512

## TABLE OF CONTENTS

DIVERSION ELIGIBILITY AND SCREENING.....	1-4
WAIVER OF SPEEDY TRIAL.....	5
RELEASE OF INFORMATION.....	6
DIVERSION CONTRACT.....	7
DIVERSION RULES.....	8-10
MOTION FOR DIVERSION STATUS.....	11-12
DIVERSION ENTRY .....	13
VOLUNTARY ALLOCUTION STATEMENT .....	14

## KNOX COUNTY PROSECUTING ATTORNEY'S

### PRETRIAL DIVERSION PROGRAM

#### I. PURPOSE

Pursuant to Revised Code Section 2935.36, the Knox County Prosecuting Attorney has established a Diversion Program to provide an alternative to traditional criminal prosecution of offenders who are not likely to commit further criminal offenses. Admission into the Diversion Program will result in the defendant being placed on a quasi-probationary status, usually for a period of one year. After successful completion of the program requirements, the prosecuting attorney will dismiss the case against the defendant, allowing the defendant to avoid all of the collateral consequences of a felony conviction. Failure to complete the requirements will result in prosecution of the offense as charged.

The Diversion Program has the following policy objectives: 1) to reduce the felony caseload of the Knox County Common Pleas Court; 2) to provide restitution to victims of criminal offenses; and 3) to obtain a 90% successful completion rate.

#### II. ELIGIBILITY

##### A. STATUTORY ELIGIBILITY REQUIREMENTS

Not all offenders are eligible for diversion status. Minimum eligibility is governed by Revised Code Section 2935.36(A)(1)-(5). The following are ineligible for the Diversion Program:

1. Repeat Offenders and Dangerous Offenders as defined in R.C. 2935.36(E).
2. Persons accused of drug crimes in violation of R.C. Chapter 2925 or 3917. (See R.C. 2935.36(A)(3)).
3. Persons accused of violations of R.C. 4511.19 (OMVI). (See R.C. 2935.36(A)(4)).
4. Persons who hold a commercial drivers' license who commit the offense while operating a commercial motor vehicle, or whose conviction of the offense would disqualify them from operating a commercial motor vehicle under Revised Code Chapter 4506.

##### B. DISCRETIONARY ELIGIBILITY REQUIREMENTS

1. Persons accused of offenses of violence as defined in Revised Code Section 2901.01(A)(9), or any of the following offenses are generally ineligible for diversion:

2903.06 Aggravated Vehicular Homicide

310/514

- 2907.04 Unlawful Sexual Conduct with a Minor
- 2907.05 Gross Sexual Imposition
- 2907.21 Compelling Prostitution
- 2907.31 Disseminating Matter Harmful to Juveniles
- 2907.32 Pandering Obscenity
- 2907.34 Compelling Acceptance of Objectionable Materials
- 2911.31 Safecracking
- 2919.12 Unlawful Abortion
- 2919.13 Abortion Manslaughter
- 2919.22 Endangering Children
- 2921.02 Bribery
- 2921.11 Perjury
- 2921.12 Tampering with Evidence
- 2921.32 Obstructing Justice
- 2923.20 Unlawful Transactions in Weapons

UNLESS the Prosecuting Attorney finds, and enters into the case file, any of the following:

- A. That the accused did not cause, threaten, or intend serious physical harm to any person;
  - B. The offense was the result of circumstances not likely to recur;
  - C. The accused has no history of prior delinquency or criminal activity;
  - D. The accused has led a law-abiding life for a substantial time before the commission of the alleged offense;
  - E. Substantial grounds tending to excuse or justify the alleged offense.
2. Persons accused of crimes where the economic loss involved is \$7,500 or more are ineligible for the Diversion Program.
  3. The Defendant must be represented by legal counsel, and must sign all required program documents.
  4. The Knox County Prosecuting Attorney's Office will not amend an indictment to make an offender eligible for diversion.
  5. The Knox County Prosecuting Attorney's Office has the final discretion to disapprove any applicant for participation in the Diversion Program, even if they meet the minimum eligibility requirements stated above.

### III. ADMISSION TO DIVERSION PROGRAM

#### A. INITIAL SCREENING PROCESS

After indictment, potential applicants for the Diversion Program shall have their legal counsel make contact with the Knox County Prosecuting Attorney's Office. The Knox County Prosecuting Attorney's Office will not consider pre-indictment diversion.

310/515

The prosecuting attorney or assistant prosecuting attorney will discuss the case with defense counsel and do an initial screening as to whether the offense is statutorily eligible for the Diversion Program. If so, defense counsel will be directed to contact the Court's Chief Probation Officer, who serves as the Diversion Director.

#### **B. DETAILED SCREENING PROCESS**

The Diversion Director will meet with the defendant and defense counsel to discuss the case and submit an application for the program. As part of the application, the defendant shall authorize the Diversion Director to complete a background check of the defendant, including the defendant's criminal history. In addition to meeting with the defendant, the Diversion Director shall consult with the arresting/investigating officer on the case as well as any victim to determine whether the case is suitable for diversion. The Diversion Director may request proof of means to make restitution as part of the screening process. The Diversion Director will make a recommendation to the Prosecuting Attorney concerning acceptance into the program, and whether that acceptance requires any of the findings in Section II(B)(1) above.

#### **C. ACCEPTANCE INTO PROGRAM**

If the Prosecuting Attorney approves the defendant's participation in the Diversion Program, the Defendant and his defense counsel must sign the following documents:

1. A waiver of speedy trial contingent upon the successful completion of the program;
2. An agreement tolling any periods of limitation applicable to the offense while the defendant is in the Diversion Program;
3. An acknowledgement of the Rules of the Diversion Program;
4. A written Plea of Guilty and Allocution Statement. The Plea and Allocution Statement will be held by the Diversion Officer pending successful completion of the program. The defendant shall acknowledge that the Plea and Allocution Statement may be used in evidence against the defendant if the defendant does not successfully complete the Diversion Program.

#### **IV. REQUIREMENTS OF DIVERSION PROGRAM**

- A. Report monthly to the Diversion Director.
- B. Make restitution payments to the Clerk of Courts, as scheduled by the Diversion Director.
- C. Comply with the Rules of the Diversion Program.
- D. Pay a diversion fee of \$100 to the Clerk of Courts prior to the first scheduled monthly meeting with the Diversion Director.
- E. Non-compliance with any of the requirements may subject the defendant to revocation of diversion status and having the case set for trial.
- F. The defendant must comply with all requirements of diversion within 12 months of entering the program. The defendant may apply to extend the time for diversion by one additional

12 month term, subject to the approval of the Prosecuting Attorney. The primary purpose for an extension would be to allow for the payment of restitution and court costs. An extension will not be granted unless the defendant has consistently abided by the Rules of Diversion.

**V. TERMINATION FROM DIVERSION PROGRAM**

- A. Failure to abide by the Rules of Diversion or fulfill the Requirements of Diversion Program (Section IV, above) may result in termination of diversion status. Upon recommendation by the Diversion Director, the Prosecuting Attorney may file a Termination of Diversion Status with the Court, and the Court will set a trial date for the case.
- B. In addition to the grounds above, the defendant may have Diversion Status terminated if the defendant is charged with any criminal offense during the defendant's participation in the Diversion program.
- C. Diversion is a quasi-probation status with no formal adjudication of guilt or innocence. Consequently, the defendant has no right to a formal revocation hearing.
- D. If a defendant is terminated from the Diversion Program, all waivers previously executed by the defendant become void on the date Diversion Status is terminated. The Prosecuting Attorney may still use the defendant's written Guilty Plea and Allocution Statement in any trial of the matter.

**VI. SUCCESSFUL COMPLETION**

Upon successful completion of all Diversion Program requirements, as verified by the Diversion Director, the Prosecuting Attorney shall file a motion to dismiss the case, and the Court shall dismiss the case pursuant to Revised Code Section 2935.36(D).

310/517

**IN THE COURT OF COMMON PLEAS, KNOX COUNTY, OHIO**

STATE OF OHIO,

Plaintiff

vs.

Case No. CR

\_\_\_\_\_  
Defendant.

**WAIVER OF SPEEDY TRIAL**

Now comes the Defendant, \_\_\_\_\_, who upon the advice of counsel, waives his statutory and constitutional rights to a speedy trial in the above-styled matter for the purposes of assessment for the Prosecuting Attorney's Diversion Program. If the Defendant is accepted into the program, Defendant understands that this waiver will continue until the Defendant's successful completion or unsuccessful termination from the program.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Attorney

**CERTIFICATE OF SERVICE**

A copy of this document was served upon Charles T. McConville, Knox County Prosecutor, by personal service to his office located at 117 East High Street, Suite 234, Mount Vernon, Ohio 43050, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_  
Attorney

310/518



**KNOX COUNTY PROSECUTOR'S OFFICE  
CHIP MCCONVILLE, PROSECUTING ATTORNEY**

**Court of Common Pleas Diversion Contract**

\_\_\_\_\_  
Defendant Name

\_\_\_\_\_  
Diversion Director

\_\_\_\_\_  
Case Number

\_\_\_\_\_  
Charges

The Knox County Prosecutor's Office, pursuant to Revised Code Section 2935.36, has established a Diversion Program for adults who, for the first time, have committed non-violent felony offenses. The Program Rules have been approved by JUDGE RICHARD D. WETZEL, presiding judge of the Knox County Court of Common Pleas.

I UNDERSTAND THAT MY PARTICIPATION IN THE DIVERSION PROGRAM WILL BE FOR A PERIOD OF TWELVE MONTHS FROM THE DATE OF THIS AGREEMENT, UNLESS I SUCCESSFULLY COMPLETE THE PROGRAM REQUIREMENTS EARLY, OR MY DIVERSION STATUS IS REVOKED FOR NONCOMPLIANCE.

IN CONSIDERATION OF MY PARTICIPATION IN THE DIVERSION PARTICIPATION, I AGREE TO ABIDE BY THE RULES OF DIVERSION WHICH ARE ATTACHED AND INCORPORATED INTO THIS AGREEMENT, DATED THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Charles T. McConville, Prosecuting Attorney

\_\_\_\_\_  
Defense Attorney

\_\_\_\_\_  
Date

310/520

## DIVERSION PROGRAM GENERAL RULES

- \_\_\_\_\_ 1. Diversion applicants and participants must be represented by legal counsel.
- \_\_\_\_\_ 2. Under the U.S. and Ohio Constitutions, a criminal defendant has a right to a speedy trial. I understand that to participate in the Diversion Program, I must waive my speedy trial rights for the period I am in the program and during the application and screening process.
- \_\_\_\_\_ 3. Diversion participants are subject to Termination of Diversion Status if arrested, charged or indicted for a new criminal offense any time after the application is filed. Termination of Diversion Status will result in prosecution on the original charge.
- \_\_\_\_\_ 4. Diversion participants must report all arrests and/or new charges to the Diversion Director immediately. Failure to report a new charge may result in Termination of Diversion Status even if the applicant or participant is ultimately found not guilty of the new charge.
- \_\_\_\_\_ 5. Repeat offenders are not eligible for the Diversion Program. I represent that I have never applied for expungement or sealing of any criminal record.
- \_\_\_\_\_ 6. I understand that as a condition of my admission into the Diversion Program that I will be required to sign a written Guilty Plea and make an Allocution Statement about the facts of the offense. I do so with the advice of legal counsel, and with the understanding that the Guilty Plea and Allocution Statement may be used against me at trial if my Diversion Status is terminated.
- \_\_\_\_\_ 7. I will meet monthly with the Diversion Director, or more or less frequently as ordered. Missed appointments may result in Termination of Diversion Status.
- \_\_\_\_\_ 8. Restitution must be made for money received or economic loss caused to persons or property. Restitution payments must be made within one year of acceptance into the Diversion Program, unless an extension is approved by the Diversion Director and the Prosecuting Attorney. Payment of restitution will be monitored and failure to make restitution may result in Termination of Diversion Status.
- \_\_\_\_\_ 9. Court costs must be paid in full within one year of acceptance into the Diversion Program. Failure to pay court costs or diversion fees within one year may result in Termination of Diversion Status.
- \_\_\_\_\_ 10. Diversion participants may not carry, possess, or purchase any firearm while in the Diversion Program. This includes handguns, rifles and/or shotguns.

- \_\_\_\_\_ 11. Diversion participants may not be involved in the use, purchase, sale or possession of Controlled Substances, unless they are prescribed by a medical provider. Proof of the prescription and the name of the medial provider shall be furnished to the Diversion Director upon request.
- \_\_\_\_\_ 12. Diversion participants must submit to urine screens for illegal drugs if requested to do so by the Diversion Director. A positive test is grounds for Termination of Diversion Status.
- \_\_\_\_\_ 13. Diversion participants must notify the Diversion Director of any change of residence address and receive approval prior to moving. Failure to notify the Diversion Director may result in Termination of Diversion Status.
- \_\_\_\_\_ 14. Diversion participants may not be outside their county of residence for more than seven consecutive days without notifying the Diversion Director, unless the travel is employment related.
- \_\_\_\_\_ 15. If called to testify against a co-defendant, Diversion participants may not invoke their right to remain silent.
- \_\_\_\_\_ 16. Diversion Status may be terminated if the participant falsifies any information provided in the application process or provides false information to the Diversion Director while participating in the program.

In addition to the General Rules, which all Diversion participants must obey, the following individual conditions apply to the participant if checked by the Diversion Director and initialed by the participant:

- \_\_\_\_\_ You are to pay court costs and supervision fees in the amount of: \_\_\_\_\_  
Made payable to: The Knox County Clerk of Courts.
- \_\_\_\_\_ You are to pay restitution in the amount of \$\_\_\_\_\_.
- \_\_\_\_\_ You are to perform \_\_\_\_\_ hours of community service as directed by the Diversion Director.
- \_\_\_\_\_ You are to attend AA/NA meetings as recommended by your drug and alcohol counselor and provide written verification to the Diversion Director.
- \_\_\_\_\_ You are not to consume or possess any alcoholic beverages.
- \_\_\_\_\_ You are not to enter into any establishment that serves alcohol.

\_\_\_\_\_ You are to attend counseling with \_\_\_\_\_ and you are to follow all of recommendations until successfully released by your counselor in writing. You are required to supply verification of attended appointments.

\_\_\_\_\_ You are to find and maintain stable employment or be actively in pursuit of employment or participating in an employment training program. You are to provide monthly verification of employment to the Diversion Director.

\_\_\_\_\_ You are to obtain your high school diploma or GED, and provide proof of Completion to the Diversion Director.

I, \_\_\_\_\_, understand that Diversion is a voluntary program, and I have a legal and moral responsibility to abide by these terms. I understand that if I violate any of these terms, to the satisfaction of the Prosecuting Attorney, my Diversion will be terminated. Terms may be changed, modified, or added at the discretion of the Diversion Director. I understand and take the responsibility to comply with this Diversion Program Agreement and hereby acknowledge that I have received a copy of this agreement.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Probation Officer

\_\_\_\_\_  
Date

310/523

**IN THE COURT OF COMMON PLEAS, KNOX COUNTY, OHIO**

STATE OF OHIO, :  
 :  
 Plaintiff, : Case No.  
 :  
 v. :  
 :  
 \_\_\_\_\_, : JUDGE WETZEL  
 :  
 Defendant. :

**MOTION TO PLACE CASE ON INACTIVE DOCKET PENDING SUCCESSFUL  
COMPLETION OF DIVERSION**

Now comes the State of Ohio, by and through the Prosecuting Attorney, and moves the Court to place this case on its inactive docket. Defendant has been screened and accepted for placement in the Prosecuting Attorney's Pre-Trial Diversion Program pursuant to Ohio Revised Code §2935.36. A Memorandum in Support is attached.

Respectfully submitted,

\_\_\_\_\_  
Charles T. McConville (0082378)  
Prosecuting Attorney

**MEMORANDUM IN SUPPORT OF MOTION**

The Defendant has been charged with a criminal offense. The Pre-Trial Diversion Program has been explained to the Defendant, the Defendant's attorney, the victim of the offense, and the investigating officer. All concur that the Defendant is an appropriate candidate for Pre-Trial Diversion. Further, a representative of the Prosecuting Attorney's Office has screened the Defendant and the Defendant is not disqualified from participating in the program according to the guidelines set forth in Ohio Revised Code §2935.36 and the Diversion Program Rules approved by this Court.

3/0/524

The Defendant has agreed in writing to the conditions of the Diversion Program established by the Prosecuting Attorney (copy attached). The Defendant has been advised that the State's agreement not to proceed in this matter is contingent upon the Defendant's successful completion of the program, a waiver of the accused's right to a speedy trial, the execution of a written Plea of Guilty and Allocution Statement, and the tolling of all periods of limitation established by statutes or rules of the Court, which are applicable to the offense with which the accused is charged.

The State of Ohio respectfully requests the Court to transfer this case to the inactive docket while the Defendant is enrolled in the Pre-Trial Diversion Program.

---

Charles T. McConville (0082378)  
Prosecuting Attorney

**CERTIFICATE OF SERVICE**

Undersigned counsel hereby certifies that a true and accurate copy of the foregoing **Diversion Motion** was delivered by courthouse mail, U.S. mail or Certified mail, upon \_\_\_\_\_, Attorney for Defendant, Address, \_\_\_\_\_, Ohio 43015, this \_\_\_\_\_ day of May, 2017.

---

Charles T. McConville (0082378)  
Prosecuting Attorney

310/525

**IN THE COURT OF COMMON PLEAS, KNOX COUNTY, OHIO**

STATE OF OHIO, :  
 :  
 Plaintiff, : Case No.  
 :  
 v. :  
 :  
 \*\*\*\*, : JUDGE WETZEL  
 :  
 Defendant. :

**DIVERSION JUDGMENT ENTRY**

This matter is before the Court on joint motion of the Defendant and the Prosecuting Attorney to place this case on inactive status pending Defendant's completion of the Prosecuting Attorney's Diversion Program. The application includes the Defendant's waiver of time for the period the Defendant is in the program.

The Court finds that the application is properly made and the interests of justice will be served by granting the parties' joint motion, and that the Defendant has knowingly, intelligently and voluntarily waived *his/her* right to a speedy trial from the date of this Entry until such date as the Defendant is removed from the program, or successfully completes the program, whichever comes first.

Therefore, it is ORDERED:

1. This case shall be placed on inactive status, terminated from the docket and listed on line 11 of the Supreme Court report.
2. The Prosecuting Attorney shall notify the Court promptly if the Defendant is removed from the program, or successfully completes the program.
3. Bail is continued.

\_\_\_\_\_  
Richard D. Wetzel, Judge

cc: Prosecuting Attorney  
Lisa Lyons, Diversion Director  
, Counsel for the Defendant

310/526

